



# THE FEDERAL ELECTION COMMISSION

# RECORD

1325 K Street N.W., Washington, D.C. 20463

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## COMMISSIONERS

### NEW OFFICERS ELECTED

On May 14, 1980, the Federal Election Commission unanimously elected Vice Chairman Max L. Friedersdorf as its new Chairman and Commissioner John Warren McGarry as its new Vice Chairman. The new officers began their one-year terms of office on May 19, 1980.

The Federal Election Campaign Act permits Commissioners to serve as Chairman only once during their six-year terms. The law also limits the Chairman's and Vice Chairman's term of office to one year, and requires that both officers be affiliated with different political parties. Previous Chairmen were Thomas B. Curtis (1975-76), Vernon W. Thomson (1976-77), Thomas E. Harris (1977-78), Joan D. Aikens (1978-79) and Robert O. Tiernan (1979-80).

Chairman Friedersdorf served as Staff Director of the Senate Republican Policy Committee from January 1977 until his appointment to the Commission in February 1979. A native of Indiana, Mr. Friedersdorf received his B.A. from Franklin College in 1952 and earned an M.A. from American University in 1970. He pursued a journalism career before serving as administrative assistant and press secretary for former Congressman Richard L. Roudebush (R-Ind.) from 1961 to 1970. In 1970, he was Director of Congressional Relations for the Office of Economic Opportunity. From 1971 to 1977, Mr. Friedersdorf served in several White House posts. He was Deputy Assistant for Congressional Affairs to President Nixon from 1971 to 1974. He continued as Deputy Assistant to President Ford until 1975, when he became the President's Assistant for Legislative Affairs.

Vice Chairman McGarry was appointed to the Commission in October 1978. He formerly served as special counsel on elections to the Committee on House Administration in the U.S. House of Representatives. From 1963 through 1972, he engaged in private law practice and also served as chief counsel for the House Special Committee to Investigate Campaign Expenditures. From 1959 through 1962, Mr. McGarry was Assistant Attorney General of Massachusetts. A 1952 graduate of Holy Cross College, Mr. McGarry received his law degree from Georgetown Law Center in 1956.

## REPORTS

### GEORGIA PRIMARY RUNOFF RESCHEDULED

A runoff election for Congressional candidates will be held in Georgia on August 26, instead of September 2, if no candidate obtains a majority of the vote in the state's August 5 primary election. In the event of a runoff election, the schedule for filing a 12-day pre-election report by committees supporting candidates for federal office is as follows:

Closing Date of Books	Mailing Date of Report (if sent by registered or certified mail)	Filing Date
August 6, 1980	August 11, 1980	August 14, 1980

## REGULATIONS

### REGULATIONS GOVERNING SUSPENSION OF MATCHING FUNDS REVISED

On April 15, 1980, the FEC transmitted to Congress revised regulations governing the suspension of primary matching fund payments to Presidential candidates. The proposed revisions affect the following provisions of 11 CFR 9033.9:

#### Standard for Determining Violation of Spending Limits

The Commission could suspend matching fund payments to a candidate only if he or she knowingly, willfully and substantially exceeded the spending limits for matching fund recipients stipulated at 26 U.S.C. §9035. Under current Commission Regulations, promulgated on May 7, 1979, the Commission may suspend matching fund payments to a candidate who knowingly and willfully exceeds the spending limits.

*continued*

## Permanent Suspension of Eligibility

A Presidential primary candidate who exceeded the spending limits would not be permitted to reestablish matching fund eligibility after payments had been suspended. Under current regulations, payments to a candidate may resume if he or she repays an amount equal to the excessive expenditure and pays, or agrees to pay, any civil or criminal penalties resulting from this violation.

The proposed regulations, together with their explanation and justification, were published in the *Federal Register* on April 15, 1980, and will become effective after 30 legislative days have elapsed, provided neither House of Congress disapproves them. 45 FR 25378.

## FINAL REGULATIONS GOVERNING ACCESS TO PUBLIC RECORDS PUBLISHED

On May 13, 1980, the Commission published in the *Federal Register* (45 FR 31291) revised Freedom of Information Act Regulations (11 CFR Part 4) and new regulations governing access to Public Disclosure Division documents (11 CFR Part 5). These regulations, which will become effective on June 12, 1980, provide uniform disclosure procedures and fees for documents the Commission provides to the public pursuant to its public disclosure duties and documents the Commission provides through the Freedom of Information Act.

### FEC PUBLIC APPEARANCES

- |      |  |
|------|--|
| 6/3  | George Washington University<br>Seminar on Political Action Committees<br>Washington, D.C.<br>Commissioner Frank P. Reiche |
| 6/24 | Election Commissioners of New York<br>Buffalo, New York<br>Dr. Gary Greenhalgh   |
| 7/2  | National Association of County<br>Recorders and Clerks<br>Las Vegas, Nevada<br>William C. Kimberling                       |

**800 LINE**

The Public Communications Office receives numerous inquiries from the public on its toll-free line: (800)424-9530. The following explanations are offered in response to questions frequently asked about procedures for terminating reporting obligations and for reporting ongoing financial activity.

### TERMINATING REPORTING OBLIGATIONS

Following the 1980 primary elections, many candidate committees may wish to terminate their reporting obligations under the Act. The explanation given below outlines procedures for winding down campaign activity, i.e., liquidating campaign debts, using excess campaign funds and terminating committee registration (and thus reporting obligations). All citations refer to FEC Regulations.

### RECEIVING CONTRIBUTIONS AFTER THE PRIMARY TO RETIRE CAMPAIGN DEBTS

Committees authorized by defeated primary election candidates (not entered in a subsequent general election) may receive contributions after the primary election to retire a primary debt provided that:

1. The contributions do not exceed the net outstanding debts from the primary;
2. Each such contribution is specifically designated by the donor to retire the primary debt; and
3. Such contributions are regarded as contributions for the primary and, when added to any other primary election contributions from the same donor, fall within the donor's primary election contribution limit. 11 CFR 110.1(a)(2)(i).

### FORGIVING DEBTS

#### General Rule

If a committee fails to pay a campaign debt in a timely fashion consistent with normal business or trade practice, the debt in effect becomes a contribution made by the creditor to the committee, unless the creditor has made a commercially reasonable attempt to collect the debt. 11 CFR 100.7(a)(4). Contributions made under such circumstances may violate the Act. For example, all contributions from corporations, unions, national banks, Government contractors or foreign nationals are illegal under the Act. Or, as another example, continued nonpayment of a debt owed to a person who may lawfully make contributions may cause the creditor to exceed the Act's \$1,000 per election contributor limit.

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### Rules for Corporate Creditors

*Debt Treated in Commercially Reasonable Manner.* A corporate creditor may not forgive debts for less than the amount owed unless the creditor and debtor have treated the debt in a **commercially reasonable manner**. This means that:

1. Credit was extended "in the ordinary course of business" with terms substantially similar to those granted to nonpolitical debtors of similar credit risk;
2. The debtor made all reasonable efforts to retire the debt; and
3. The creditor pursued remedies in a manner similar to those used to seek payment from nonpolitical debtors. 11 CFR 114.10.

*Statement of Settlement.* If a debt owed to a corporation is settled for less than the amount owed and the debtor wishes to terminate reporting status, the corporate creditor and/or debtor (committee) must file a Statement of Settlement with the FEC for Commission review before the committee terminates. This Statement must include:

1. The initial terms of credit;
2. The steps the debtor took to extinguish the debt;
3. The remedies pursued by the creditor; and
4. The terms of settlement. 11 CFR 114.10.

### Rules for Noncorporate Creditors

*Debt Treated in Commercially Reasonable Manner.* A noncorporate creditor may demonstrate to the Commission that it has made a "commercially reasonable attempt" to collect a debt owed to it by a committee, and thereby settle the debt without the settlement being considered a contribution, provided that: the credit was extended in connection with providing goods and/or services to a political committee in the normal course of a business or professional enterprise. (A debt involving only the lending of money could not, therefore, be forgiven without a contribution being made.)

*FEC Review of Debt Settlement.* The settlement of any debt owed to a noncorporate creditor by a committee is subject to FEC review if either:

1. The amount of the debt forgiven causes the creditor to exceed contribution limitations (when added to any other contributions made by the creditor to the same candidate); or
2. The creditor wishes the entire amount of the forgiveness to be regarded as a debt settlement (and so notifies the Commission), rather than as a contribution in-kind.

In either case, a Statement of Settlement similar to that required when corporate debts are settled (above) would have to be submitted to the Commission by the creditor and/or debtor. (Directive 3, May 10, 1978.)

### EXCESS CAMPAIGN FUNDS

Contributions received by the candidate or his/her committee which, in the candidate's view, exceed the amount of funds needed to defray campaign expenditures may be used for the following purposes:

1. Future election. 11 CFR 110.3(a)(2)(iii) and (iv).
2. Defrayal of federal officeholder expenses. 11 CFR 113.2(a).
3. Donations to charity. 11 CFR 113.2(b).

4. Unlimited contributions to national, state or local party committees. 11 CFR 113.2(c).
5. Repayment of loans made by the candidate to his/her committee. 11 CFR 113.2(d).
6. Any other lawful purpose, except personal use.\* 11 CFR 113.2(d).

### TERMINATING REPORTING STATUS

#### Termination by Authorized Committee

An authorized committee may terminate its registration (and reporting obligations) only when all its debts and obligations have been extinguished and after it no longer intends to receive any contributions or make any expenditures. A principal campaign committee may terminate only when it has satisfied these same requirements and when all the debts of other authorized committees have been extinguished. 11 CFR 102.3.

Authorized committees, including the principal campaign committee, terminate their reporting status by filing a **Termination Report**. It may be filed on FEC Form 3 or by a written statement containing the same information. 11 CFR 102.3(a). The **Termination Report** must disclose:

1. All receipts and disbursements not previously reported, including an accounting of the retirement of all debts; and
2. The disposition of all residual funds.

#### Administrative Termination by FEC

The Commission, upon its own initiative or upon the request of a political committee, may administratively terminate a committee's reporting obligations if the committee's financial activity has been minimal during the previous year. For details on administrative termination, consult 11 CFR 102.4.

### REPORTING ITEMIZED AND UNITEMIZED CONTRIBUTIONS

#### Itemized Contributions

Committees must itemize every contribution received from another committee, regardless of amount. In addition, committees must itemize contributions from any person (such as a partnership or an individual) who makes a single contribution exceeding \$200 or whose total contributions during the year exceed \$200. Thereafter, each **additional** contribution from that person must be separately itemized. Committees must also itemize every loan received, regardless of amount. If a bank loan has been endorsed or guaranteed, the committee must identify the endorser or guarantor in a memo entry.

Itemized contribution information, entered on Schedule A of the reporting form, must include:

1. *Identification of the contributor:* the contributor's full name, mailing address, occupation and name of employer; and

*continued*

\*The prohibition on using excess funds for personal use does not apply to candidates who were Members of Congress on January 8, 1980.

2. *Description of the contribution:* the date and amount of the contribution; whether the contribution was designated for a primary, general or other election; and total contributions received from the same contributor during the year (aggregate year-to-date).

#### Unitemized Contributions

The total amount of contributions received from individuals (persons other than political committees and candidates) during the reporting period is reported on the Detailed Summary Page, Line 11a, Column A, of Forms 3 and 3X. The total amount of contributions not itemized on Schedule A during the reporting period must be reported as a memo entry on the line directly below 11a on the Detailed Summary Page of Forms 3 and 3X. This figure will include contributions from any person whose total contributions have not aggregated in excess of \$200 for the year and have not been itemized on Schedule A. Thus, unitemized contributions listed as a memo entry are added to all itemized contributions on Schedule A, and the total is shown on Line 11a, Column A, of the Detailed Summary Page.

### REPORTING PARTNERSHIP CONTRIBUTIONS

A partnership is considered a "person" under the Act (2 U.S.C. §431(11)) and may therefore contribute as an entity. A contribution from a partnership may not exceed \$1,000 per candidate, per election. 11 CFR 110.1(e)(3). A contribution from a partnership counts proportionately against each partner's contribution limit for that election. The contribution by the partnership may be attributed to each partner in direct proportion to his/her respective share of partnership profits; or according to some formula agreed on by the partners, which conforms with the provisions of 11 CFR 110.1(e)(2)(i)(ii). For example, the XYZ Partnership, consisting of four partners, contributes \$1,000 to Candidate Smith. Each partner is credited with having made a \$250 contribution to Smith and may then, on his/her own, make an additional contribution of up to \$750 to Smith.

A political committee must report the receipt of a partnership contribution by including the contribution in total contributions reported on Line 11a of Form 3 or 3X.

In addition, if the partnership's contribution exceeds \$200 (when combined with all other contributions received from the same partnership), the committee must also use Schedule A to:

- Itemize the contribution (see above); and
- Disclose, as a memo entry: 1) each partner's share of the contribution, if each partner's share exceeds \$200 when combined with all other contributions from that partner; and 2) each partner's year-to-date contributions. By recording this information as a memo entry, the committee avoids counting the partnership contribution twice.

# OPINIONS

## ADVISORY OPINION REQUESTS

Advisory Opinion Requests (AOR's) pose questions on the application of the Act or Commission Regulations to specific factual situations described in the AOR. The following chart lists recent AOR's with a brief description of the subject matter, the date the requests were made public and the number of pages of each request. The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject	Date Made Public	No. of Pages
1980-43	Reporting by 1974 candidate committee with outstanding debt to candidate.	4/21/80	7
1980-44	Solicitations by labor organization for its separate segregated fund.	4/23/80	5
1980-45	Nonpartisan voter registration activities conducted by nonprofit organization.	4/23/80	3
1980-46	Contributions to candidate solicited by unauthorized multicandidate committee.	4/23/80	2
1980-47	FECA preemption of state law on compensation of campaign workers.	4/24/80	5
1980-48	Definition of corporation and cooperative; solicitations by cooperative association.	4/25/80	2
1980-49	Candidate's use of campaign funds for personal expenses.	4/28/80	1
1980-50	Solicitations for corporation's separate segregated fund through orientation meeting.	4/28/80	2
1980-51	Services provided political committees by bank employees during banking hours.	4/30/80	1
1980-52	Application of contribution limits to funds received by independent expenditure committee.	4/30/80	2
1980-53	Host committee's distribution of tote bags, contributed by corporation, to delegates attending major party convention.	5/2/80	2
1980-54	Contribution by national bank to state political action committee.	5/7/80	8
1980-55	Corporate assistance to non-partisan voter registration drives sponsored by state or local election officials.	5/8/80	2

AOR	Subject	Date Made Public	No. of Pages
1980-56	Minor party's receipt of retroactive public funding for Presidential general election.	5/9/80	1
1980-57	Fundraising by candidate to pay for litigation expenses related to election.	5/9/80	14
1980-58	Contribution by national bank to state senator's officeholder expense fund.	5/13/80	3
1980-59	Member corporation's contribution to administrative fund of trade association's separate segregated fund.	5/14/80	2
1980-60	State party convention as election.	5/14/80	2

### ADVISORY OPINION REQUESTS WITHDRAWN

Since May 8, 1980, the following Advisory Opinion Requests (AOR's) have been withdrawn by their requesters:  
 — AOR 1979-79  
 — AOR 1980-35

### ALTERNATE DISPOSITION OF ADVISORY OPINION REQUESTS

Since March 14, 1980, the FEC has responded to the following Advisory Opinion Requests (AOR's) with a letter issued by the Commission's General Counsel rather than by issuing an advisory opinion.

**AOR 1979-45** (Formation of state senatorial general election committee(s) by National Republican Senatorial Committee). The General Counsel informed the requester in a letter issued March 14, 1980, that the Commission had failed to approve an advisory opinion by the requisite four-vote majority. 2 U.S.C. §437c(c).

**AOR 1980-13** (Payment of college tuition and salary when professor is federal candidate). The General Counsel informed the requester in a letter issued May 14, 1980, that the Commission had failed to approve an advisory opinion by the requisite four-vote majority. 2 U.S.C. §437c(c).

**AOR 1980-24** (Publisher's distribution of handbook to national party convention delegates). The General Counsel informed the requester in a letter issued May 9, 1980, that the Commission had determined that the request did not qualify for treatment as an AOR under the Act since it did not include a complete description of all facts relevant to the specific activity under consideration. 2 U.S.C. §437f and 11 CFR 112.1(c).

### ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR's. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

#### AO 1980-20: Nonpartisan Voter

##### Registration Communication

Rexnord, Inc. may use corporate funds to pay for a general circulation newspaper advertisement that reads "Please Register To Vote" and that includes "Rexnord, Inc." printed in a lower corner of the ad because:

1. Rexnord's activity involves only a communication urging nonpartisan participation — not personal services, such as driving people to polls, which would require joint sponsorship with a nonpartisan organization.
2. The Rexnord advertisement lacks any suggestion that the reader designate a political party preference when registering to vote.
3. The ad does not appeal for political participation on the part of any identifiable group to assure the well-being of a particular political party.
4. By placing the ad in a general circulation newspaper, Rexnord has not tried to determine the political preference of the audience who may read the advertisement. 11 CFR 114.4.

This opinion overrules AO 1979-48, also issued to Rexnord, Inc. and summarized in the December 1979 issue of the *Record*. Chairman Robert O. Tiernan and Commissioner Thomas E. Harris filed a dissenting opinion. Commissioner Frank P. Reiche filed a concurring opinion. (Date issued: May 1, 1980; Length: 10 pages, including dissenting and concurring opinions.)

#### AO 1980-21: Donation of Baseball Tickets to Host Committee of National Party Committee

The New York Yankee Baseball Club may donate tickets to the Host Committee of the National Democratic Convention for free distribution to convention delegates. The tickets will not be considered a prohibited corporate contribution by the Yankee Ball Club to the Host Committee. 11 CFR 114.1(a)(2)(viii). Nor will the tickets be considered a convention expenditure. 11 CFR 9008.7(d)(4).

The Yankee Ball Club's donation of tickets is considered a permissible in-kind contribution to the Host Committee since the free distribution of tickets will assist the Host Committee in welcoming convention delegates to New York City. 11 CFR 9008.7(d)(2). (Date Issued: April 20, 1980; Length: 2 pages)

#### AO 1980-22: Corporate Sponsorship of Town Meetings

Costs incurred by the American Iron and Steel Institute (an incorporated trade association) and its member com-

*continued*

panies in sponsoring a series of town meetings in which federal officeholders (who may be candidates) participate would not constitute either contributions or expenditures under the Act.

Since the purpose of the town meetings is to provide a forum for discussion of issues facing the steel industry, and not to nominate or elect candidates to federal office, Senators and Congressmen may participate in meetings held in their state or district provided:

1. All remarks, including pre-meeting publicity, are restricted to steel industry issues and do not include any statements expressly advocating the election or defeat of any federal candidate; and
2. Campaign contributions are neither solicited to nor accepted by the federal officeholders at the event. (Date Issued: April 15, 1980; Length: 2 pages)

**AO 1980-23: Name of Separate Segregated Fund**

The Agricultural and Dairy Education Political Trust (ADEPT), a separate segregated fund, must modify its official name to include the full name of its connected organization, the Mid-America Dairymen, Inc., as required by the 1979 Amendments to the Act. 2 U.S.C. §432(e). On documents such as checks and letterhead, however, ADEPT may use an abbreviated title consisting of a prefix before its current name, as long as the abbreviated title makes clear to the public who sponsors the separate segregated fund. "Mid-Am Dairymen" or "Mid-America Dairymen," two suggestions offered by ADEPT, would be adequate; "Mid-Am" or "Mid-America" would not be sufficiently recognizable by the public.

Its official name and the abbreviation must appear on an amended Statement of Organization, on all disclosure reports required under the Act, and on any sponsorship notices required under 2 U.S.C. §441d. 2 U.S.C. §433(c). (Date Issued: April 14, 1980; Length: 2 pages)

**AO 1980-25: Authorization Notice on Candidate's Issue Letter**

Mr. Jack Smilowitz, a Congressional candidate, is not required to include an authorization notice on a letter he intends to distribute to the public, in which he opposes a California ballot initiative. Although Mr. Smilowitz's proposed letter identifies him as a candidate and gives his party affiliation, an authorization notice is not required because the letter does not expressly advocate his election or solicit contributions to his campaign committee. 2 U.S.C. §441d. Costs incurred in writing, photocopying, and distributing the letter are reportable as expenditures by his campaign committee. 2 U.S.C. §434(b)(4). (Date Issued: April 20, 1980; Length: 2 pages)

**AO 1980-26: Contributions by Government Contractor**

The Stenholm for Congress Committee (the Committee) may retain contributions from an individual who is not a government contractor but who contracts with businesses which are under contract to the federal government. Commission Regulations specifically state that the Act's ban on contributions by government contractors does not

apply to this type of situation. 11 CFR 115.1(d). (Date Issued: April 20, 1980; Length: 2 pages)

**AO 1980-27: Earmarking Portion of Membership Dues For Separate Segregated Fund**

The Federation of American Hospitals (FAH), an incorporated trade association, may not solicit contributions to its separate segregated fund (FedPac) by allowing individual members to direct a fixed percentage of their membership dues to FedPac without increasing the total amount of their dues.

The portion of dues earmarked for FedPac would not be personal contributions from members but, rather, would be corporate money diverted to FedPac by the member's designation. Since corporate funds thus allocated to FedPac would be used in connection with federal elections, FAH's proposed solicitation procedure is prohibited under 2 U.S.C. §441b(a). (Date Issued: April 28, 1980; Length: 2 pages)

**AO 1980-28: Party Ad Promoting Delegate Selections**

A payment made by the Republican Committee of Chester County (the Committee) for newspaper advertising which advocates the selection of specific delegates to attend the Republican National Convention, and which may also include an endorsement of the delegates by a Congressional candidate, would be an "expenditure" by the Committee since the purpose of the advertising is to influence a federal election. 2 U.S.C. §431(9)(A)(i). The Act specifically defines a federal election to include a "primary election held for the selection of delegates to a national nominating convention of a political party." 2 U.S.C. §431(1)(C). The Committee would report payments for the proposed newspaper advertising as follows:

*Endorsement of Delegates by the Committee Only.* If the advertising exceeded \$1,000 (or exceeded \$1,000 when combined with other contributions and expenditures made for federal elections during 1980), the Committee would have to register as a political committee and report the expenditure. 2 U.S.C. §§433 and 434.

*Endorsement of Delegates by the Committee and a Congressional Candidate.* If the newspaper advertising also included an endorsement of the delegates by a Member of Congress who is a candidate for re-election, the Committee would not have to allocate the costs of the advertising between the Congressional candidate and the delegates unless the purpose of the advertisement was also to influence the re-election of the Member of Congress. If the advertising did reflect an intent to influence the re-election of the Congressional candidate, an in-kind contribution to the candidate by the Committee would result. In that event, the candidate's campaign committee would have to report the advertising as both an in-kind contribution to, and an expenditure by, the campaign committee and would have to comply with the allocation regulations. 11 CFR 106.1. (Date Issued: April 14, 1980; Length: 4 pages)

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**AO 1980-29: Use of  
Campaign Funds**

Congressman Norman D. Shumway may use his campaign funds to pay for his expenses as a delegate to the National Republican Nominating Convention. The Commission has stated in previous opinions that candidates and their committees have wide discretion in deciding how to spend campaign funds.

If campaign funds are used to defray his convention expenses, the Congressman's campaign committee must report those payments as an "expenditure" if the purpose of the payment is to influence Mr. Shumway's election. If the payment is made for some other purpose, the committee must nevertheless report it as a general disbursement. 11 CFR 104.3(b)(4)(i) and (ii). (Date Issued: April 28, 1980; Length: 2 pages)

**AO 1980-36: Preemption of  
State Law**

The Ruth Miller for Congress Committee does not have to comply with an Ohio statute requiring campaign advertisements to disclose the name and address of the secretary or chairman of the committee responsible for the communication. Since the Act and Regulations supercede and preempt state law with respect to disclosure required in conducting campaigns for federal office (2 U.S.C. §453), the advertising notice requirements of §441d, which do not require the name or address of the sponsoring individual, supercede the Ohio statute. (Date Issued: April 28, 1980; Length: 2 pages)

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## COMPLIANCE

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**FEC PUBLISHES NAMES  
OF NONFILERS**

From April 1 through May 2, 1980, the Federal Election Commission published three separate listings of nonfilers who failed to file campaign finance reports required by the Federal Election Campaign Act.

**Pre-Primary Reports**

On April 18 and May 2, 1980, the Commission published the names of three authorized campaign committees which had failed to file their pre-primary reports for either the Pennsylvania Congressional elections or the Indiana primary.

**Quarterly Reports**

On May 1, 1980, the Commission published a list of nine committees authorized by 1980 House and Senate candidates and one committee authorized by a Presidential candidate which had failed to file their quarterly reports.

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## THE LAW IN THE COURTS

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**SUPREME COURT UPHOLDS  
CONSTITUTIONALITY OF  
PUBLIC FUNDING PROVISIONS**

On April 14, 1980, the U.S. Supreme Court unanimously affirmed decisions by a three-judge court of the U.S. District Court for the Southern District of New York and the *en banc* United States Court of Appeals for the Second Circuit upholding the constitutionality of the Presidential Election Campaign Fund Act challenged in *Republican National Committee, et al. v. Federal Election Commission, et al.*, originally filed on June 16, 1980. The Court also denied a petition for *certiorari* seeking review of the suit's dismissal by a single district judge. The RNC's appeals and petition for *certiorari*, filed with the Supreme Court on March 7, 1980, sought review of the rulings by the three lower courts that the following provisions of the public financing law were constitutional:

- Presidential candidates of a major party must agree not to make qualified campaign expenses in excess of the amount of public funds they receive; and
- candidates must certify that neither they nor any of their authorized committees will accept private contributions to defray qualified campaign expenses incurred during the general election, except to the extent necessary to make up any deficiency in public funds.

In its motion to affirm the decisions of the lower courts and its opposition to the *certiorari* petition, filed with the Supreme Court on March 24, 1980, the Commission argued that, by seeking the right to raise private money in addition to public funds, the RNC sought to "transform what Congress designed as an optional alternative to private funding of Presidential campaigns into a \$29.4 million subsidy."

For a detailed summary of the suit, see the February 1979 issue of the *FEC Record*.

**COURT GRANTS FEC MOTION  
FOR SUMMARY JUDGMENT  
IN NRWC SUIT**

On August 31, 1979, the Federal Election Commission and the National Right to Work Committee (NRWC) filed cross motions for summary judgment in the consolidated cases of *Federal Election Commission v. National Right to Work Committee, et al.*, Civil Action No. 77-2175, and *National Right to Work Committee, et al. v. Federal Election Commission, et al.*, Civil Action No. 78-0315 (D.D.C.). On April 24, 1980, the United States District Court for the District of Columbia granted the Federal Election Commission's motion for summary judgment, denied the National Right to Work Committee's and the Employee Rights Campaign Committee's (ERCC's) cross motion for summary judgment, and dismissed with prejudice the complaint filed against the Commission by NRWC and ERCC, the separate segregated fund of NRWC.

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The case concerned a solicitation of funds to ERCC, which ERCC and NRWC had conducted through several mass mailings sent in 1976. Approximately 276,123 persons had been solicited, raising \$77,616.87 for ERCC. In its original suit, the FEC had alleged that NRWC and ERCC had violated 2 U.S.C. §441b(b)(4)(C) by soliciting funds from persons who were not members of NRWC. In its counterclaim against the Commission, NRWC and ERCC had argued that the funds were obtained by a solicitation method permitted by 2 U.S.C. §441b(b)(4)(C) since NRWC was a corporation without capital stock and those persons solicited were members of NRWC. In addition, NRWC had challenged the constitutionality of several provisions of the Federal Election Campaign Act.

The Court held that NRWC and ERCC had knowingly and willfully violated 2 U.S.C. §441b by soliciting funds to ERCC from persons other than members of NRWC. The Court also upheld the constitutionality of 2 U.S.C. §441b, as well as the Act's limitations on corporate solicitation of funds to a separate segregated fund, finding that those pertinent sections of the Act did not abridge First Amendment rights of free speech and association. Finally, the Court found the statutory terms "members," "solicitation," and "corporation without capital stock" not to be unconstitutionally vague in violation of the First Amendment, as had been alleged by NRWC and ERCC.

Specifically, the Court found that NRWC supporters possessed none of the basic criteria of membership in an organization. NRWC's articles of incorporation explicitly stated that NRWC "shall not have members," and the actual structure and operation of the organization precluded the contributors from being defined as "members" of the organization.

In finding that NRWC and ERCC had knowingly and willfully violated the law, the Court:

- Enjoined NRWC and ERCC from making further solicitations for contributions from persons other than those prescribed by the membership exception set forth in 2 U.S.C. §441b(b)(4)(A)(i);
- Ordered NRWC and ERCC to refund the \$77,616.87 in contributions received through the solicitations in question; and required that the refund include a copy of the Court's judgment and order and a notice stating unequivocally that the refund was being made pursuant to the Court's order to remedy NRWC's and ERCC's violations of the Act;
- Imposed a civil penalty of \$10,000 on NRWC and ERCC, payable within ten days of the Court's ruling; and
- Awarded the Commission its costs.

## **FEC v. JEFFREY BELL**

On April 14, 1980, the U.S. District Court for the District of New Jersey issued a consent judgment agreed to by the Commission and defendant Jeffrey Bell. The Commission had filed suit on January 21, 1980, alleging that the defendant had violated 2 U.S.C. §441a(f) by accepting excessive contributions from his mother Marjorie Bell during his 1978 Senatorial campaign in New Jersey. Mr. Bell agreed to pay a civil penalty of \$1,500 levied by the Court.

## **FEC v. MARJORIE BELL ET AL.**

On April 10, 1980, the U.S. District Court for the District of Columbia issued a consent judgment agreed to by the Commission and defendants Marjorie Bell, the Bell for Senate Committee and its two treasurers, Andrew P. Napolitano and James S. Wagner. The Commission had filed suit on July 20, 1979, claiming that Marjorie Bell had violated the contribution limits of 2 U.S.C. §§441a(a)(1)(A) and 441a(a)(3); and that the Bell Committee and its two treasurers had violated 2 U.S.C. §441a(f) by knowingly accepting excessive contributions, and 2 U.S.C. §434(b) by failing to report the actual source of the contributions. Marjorie Bell agreed to pay a civil penalty of \$500 levied by the Court. The Bell for Senate Committee agreed to pay a civil penalty of \$4,500 levied against both the Committee and its officers. The Committee also agreed to amend reports filed with the Commission to indicate that Marjorie Bell was the actual source of \$52,400 reported as loans from Jeffrey Bell to the Committee.

## **FEC v. GENE A. WILLIAMSON**

On April 16, 1980, the Commission and Gene A. Williamson entered into a consent decree approved by the U.S. District Court for the Eastern District of Michigan, Southern District. In its suit filed against the defendant on October 24, 1978, the Commission had alleged that Mr. Williamson had violated 2 U.S.C. §441f by permitting another person to make a political contribution in his name. The defendant agreed to pay a civil penalty of \$500 assessed by the Court. The Commission agreed not to take any further action against the defendant with regard to this violation or to recommend that any other federal or state agency take action against the defendant.

## **LITIGATION STATUS INFORMATION**

The following is a list of new litigation involving the Commission, together with the date the suit was filed, the court involved, the docket number and a brief description of the major issue(s) involved in the case. Persons seeking additional information on a particular case should contact the court where the suit is filed or the Commission.

**FEC v. James H. Dennis, Sr.**, U.S. District Court for the District of Columbia, Docket No. 80-1086, May 1, 1980.

FEC alleges that James H. Dennis, Sr., violated the requirements of a conciliation agreement he entered into with the Commission pursuant to 2 U.S.C. §437g(a)(5) and (7) when he failed to pay \$18,000 in civil penalties required by the agreement.



# INFORMATION

## COMMISSION APPROVES REVISED INVITATION POLICY

On May 1, 1980, the Commission approved a revised policy for accepting invitations to address public gatherings on campaign finance laws and the Commission itself. Under the revised policy (FEC Directive No. 30), Commissioners and staff may accept travel and subsistence payments from nonprofit organizations exempt from taxation under 26 U.S.C. §501(c)(3) or from the treasuries of state, county and municipal governments to attend meetings sponsored by these organizations.

## FEC REPORTS TO CONGRESS ON 1979 FOIA ACTIVITIES

On April 10, 1980, the Commission submitted to Congress its annual report on activities performed in compliance with the Freedom of Information Act (FOIA). The report noted that the Commission processed 81 FOIA requests during 1979, a sharp increase over the 36 requests processed during 1978. Of these requests, only nine were denied while seven were partially filled. Of four FOIA appeals filed with the Commission, two were denied, one was partially granted and one was rendered moot.

The report also noted a problem area in processing FOIA requests. Specifically, the Commission is currently required to process FOIA requests for information already made available to the public through the FEC's statutorily mandated disclosure programs as well as other FEC information programs. To prevent this duplication of information services, and reduce research and copying costs incurred in filling FOIA requests, the report recommended amendments to the Freedom of Information Act which would exempt from its disclosure requirements documents already available to the public under other statutes or programs.

## SELECTED BIBLIOGRAPHY OF CAMPAIGN FINANCE LAWS AVAILABLE

During May 1980, the FEC's Library issued a *Campaign Finance and Federal Elections Bibliography*. The *Bibliography*, which will be updated biannually, provides a selected, annotated compilation of publications issued from January 1977 through April 1980. Documents are listed according to four information categories:

**Part I:** Documents pertaining to the 1979 Amendments to the Federal Election Campaign Act (Pub. L. 96-187);

**Part II:** Books, monographs and treatises;

**Part III:** Manuals, guidebooks, reference services and search tools; and

**Part IV:** Law review articles and articles from business, political science and general periodical indexes.

Copies of the *Campaign Finance and Federal Elections Bibliography* are available for review and copying in the FEC's Public Records Office. Requests for the *Bibliography* should be accompanied by a money order or check for \$.80, payable to the U.S. Treasury, and sent to the FEC's Public Records Office.

# FEDERAL REGISTER NOTICES

Notice	Title	Federal Register Publication Date	Citation
1980-16	Rulemaking Petition; Notice of Availability (Requested by the Democratic National Committee and the Democratic Senatorial Campaign Committee to require specified notice on all solicitations for contributions by political committees conducting negative campaigns)	4/21/80	45 FR 26819
1980-17	11 CFR Part 110 Amendments to Federal Election Campaign Act of 1971; Correction (Reflects deletion of 11 CFR 110.7(b)(5) from the 1979 Amendments)	4/23/80	45 FR 27435
1980-18	11 CFR Part 4 Public Records and the Freedom of Information Act (Final rule)	5/13/80	45 FR 31291
1980-19	11 CFR Part 5 Access to Public Disclosure Division Documents (Final rule)	5/13/80	45 FR 31292
1980-20	11 CFR, Subchapter E, Parts 9001-9007, 9009 Presidential Election Campaign Fund: General Election Financing (Notice of proposed rulemaking)	5/15/80	45 FR 32003
1980-21	11 CFR, Parts 100 and 110 Contributions to and Expenditures by Delegates to National Nominating Conventions (Transmittal of regulations to Congress)	5/23/80	45 FR 34865

## CLEARINGHOUSE

### CLEARINGHOUSE CONDUCTS WORKSHOPS AT IIMC CONVENTION

The FEC's Clearinghouse on Election Administration recently conducted two workshops on federal election responsibilities in conjunction with the annual meeting of the International Institute of Municipal Clerks (IIMC) held May 21-22 in Toronto, Canada. Dr. Gary Greenhalgh, Director of the Clearinghouse and Assistant Staff Director for Information, led each of the following workshops with the assistance of three election administrators:

**Workshop on Voting Systems and Equipment** – discussed available voting systems and the new Voting Equipment Standards Study required by the 1979 Amendments to the Federal Election Campaign Act.

**Workshop on Absentee Registration and Voting** – focused on the mechanics of absentee voting with an emphasis on the Overseas Voting Rights Act and the special "Presidential ballot" section of the Voting Rights Act of 1975.

These workshops were also conducted at the Clearinghouse's five regional seminars held during 1979 and in January 1980.

## AUDITS

### AUDITS RELEASED TO THE PUBLIC

The Federal Election Campaign Act, as amended (the Act) requires candidates and political committees to file financial disclosure reports with the Commission. The Act also gives the Commission authority to audit campaigns of all Presidential candidates who receive public funds, and the reports of other political committees. Final audit reports are available to the press through the Press Office and to the general public through the Office of Public Records. The following is a chronological listing of audits released between April 10, 1980, and May 5, 1980:

Audit	Date Made Public
Independence Club Political Committee	4/10/80
Democratic Finance Committee	4/10/80
New York State Voter Registration Drive	4/10/80
California Dental Political Action Committee	4/10/80
Democratic Campaign Committee	5/5/80
Citizens for the Republic	5/5/80
McCarthy '76 CA	5/5/80

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