

# RECORD

April 1984

1325 K Street NW Washington DC 20463

Volume 10, Number 4

## REGULATIONS

### RULES ON CORPORATE/LABOR COMMUNICATIONS PRESCRIBED

On March 5, 1984, the Commission prescribed revised regulations governing partisan and non-partisan communications made by corporations\* and labor organizations to their employees, members and stockholders and to the general public. 11 CFR 114.3 and 114.4. The revised rules expand the types of nonpartisan communications that corporations and labor organizations may make to the general public. The revisions also relax some of the rules governing partisan communications that corporations and labor organizations may make to their respective restricted classes.

The Commission originally submitted the proposed rules to Congress in March 1983, but withdrew them a month later to obtain further public comment. After holding a second round of public hearings in August 1983 and considering additional comments, the Commission revised the provisions governing nonpartisan voting records and voter guides. The Commission resubmitted the full set of revisions to Congress in November 1983.

Highlights of major modifications in the communications rules appeared in the April and December 1983 issues of the *Record*. The full text of the revised rules was published in the *Federal Register* on November 2, 1983 (48 *Fed. Reg.* 50502). Copies of the new regulations may be obtained by writing the FEC's Public Communications Office, 1325 K Street, N.W., Washington, D.C. 20463 or by calling: 202/523-4068 or toll free 800/424-9530.

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\*The rules governing corporate activity apply to a broad range of incorporated organizations, including national banks, corporations with capital stock and incorporated membership organizations (including corporations without capital stock, incorporated trade associations and incorporated cooperatives).

**NEW SUPPLEMENT TO 11 CFR**

In March, the Commission published a new supplement to the 11 CFR containing all amendments to FEC Regulations prescribed since the 11 CFR was published in July 1983. The publication is entitled Amendments to Regulations; Vol. I.

This publication, which supercedes a supplement issued in October 1983, will be mailed to all registered political committees.

A companion volume (Volume 2) containing the explanation and justification of the amendments is also available upon request. A copy of either publication may be requested by writing or calling the FEC's Public Communications Office, 1325 K Street, N.W., Washington, D.C. 20463 or by calling: 202/523-4068 or toll free 800/424-9530.



**APRIL REPORTING SCHEDULE**

The following chart and paragraphs explain the reporting schedule for the various categories of filers.

| Type of Filer  | Report                |                |                     |                       |
|--|-----------------------|----------------|---------------------|-----------------------|
|  | Quarterly<br>April 15 | Pre-Primary    | Monthly<br>April 20 | Semiannual<br>July 31 |
| 1984 Congressional Candidates                            | X                     | X              |                     |                       |
| Congressional Candidates/Other<br>Years                  |                       |                |                     | X                     |
| 1984 Presidential Candidates/<br>\$100,000+              |                       |                | X                   |                       |
| 1984 Presidential Candidates/<br>Under \$100,000         | X                     | X              |                     |                       |
| 1980 Presidential Candidates <sup>1</sup>                | X                     |                |                     |                       |
| Unauthorized Committees/Monthly <sup>2</sup>             |                       |                | X                   |                       |
| Unauthorized Committees/Quarterly                        | X                     | X <sup>3</sup> |                     |                       |
| National Party Convention Com-<br>mittees <sup>4</sup>   | X                     |                |                     |                       |
| Connected Organizations/Communi-<br>cations <sup>5</sup> | X                     |                |                     |                       |

<sup>1</sup>Authorized Presidential committees that are not active in 1984 elections may file on either a monthly or quarterly reporting schedule. See 11 CFR 104.5(b)(2).

<sup>2</sup>All unauthorized committees (i.e., committees not authorized by candidates) are required to file on either a monthly or quarterly basis in 1984.

<sup>3</sup>Required only if the unauthorized committee makes contributions or expenditures on behalf of candidates in the primary which have not been previously disclosed.

<sup>4</sup>In the case of national party convention committees, the quarterly report is due April 10.

<sup>5</sup>Report required if aggregate costs for partisan, internal communications for all 1984 primaries have exceeded \$2,000.

**Quarterly Report**

Due by April 15, the report should cover all activity from January 1 (or from the closing date of the last report filed in 1984 or from the date of registration,\* whichever is later) through March 31.

**Pre-Primary Report**

The report is due 12 days before the primary election and must be complete as of the 20th day before the election. If sent by registered or certified mail, the report must be postmarked no later than the 15th day before the election.

**Monthly Report**

The monthly report must be filed by April 20. It should cover all activity from March 1 (or from the closing date of the last report filed in 1984 or from the date of registration,\* whichever is later) through March 31.

**Semiannual Report**

The semiannual report is not filed until July 31. It covers all activity from January 1 (or from the closing date of the last report filed in 1984 or from the date of registration, whichever is later) through June 30.

**WHERE REPORTS ARE FILED**

Committees must file all reports and statements simultaneously with the appropriate federal and state officials. 11 CFR 108.5.

**Filing with the Federal Government**

1. The principal campaign committees of House candidates and committees supporting or opposing only House candidates file with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515. 11 CFR 104.4(c)(3) and 105.1.

*\*In the case of an authorized candidate committee, from the date candidate status is established. The Committee must report all financial activity incurred by the candidate before he/she authorized the committee. 11 CFR 101.3 (a) and 104.3(a) and (b). However, activity which occurred before 1984 must be reported separately.*

2. The principal campaign committees of Senate candidates and committees supporting or opposing only Senate candidates file with the Secretary of the Senate, Senate Public Records, 119 D Street, N.E., Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.

3. All other committees, including the principal campaign committees of Presidential candidates, file with the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

**Filing with State Governments**

1. The principal campaign committees of Congressional candidates must file a copy of every report and statement with the Secretary of State or the appropriate elections official of the state in which the candidate seeks federal office. 11 CFR 108.3.

2. The principal campaign committees of Presidential candidates must file copies of reports and statements with the Secretary of State or the appropriate elections official of the state in which the committee makes campaign expenditures. These reports must contain all financial transactions which apply to that state during the reporting period covered. 11 CFR 108.2.

3. Unauthorized committees making contributions or expenditures in connection with House and Senate races file in the state in which the candidate seeks election. The law requires a copy only of that portion of the report applicable to the candidate(s) being supported. Committees supporting Presidential candidates must file in the state(s) in which the Presidential committee and donor committee have their respective headquarters.

**HOW TO OBTAIN MORE INFORMATION**

During 1984, reporting forms and additional information will be sent to registered committees. Questions and requests for additional forms should be addressed to the Office of Public Communications, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463; or call 202/523-4068 or toll free 800/424-9530.

The Record is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Lee Ann Elliott, Chairman; Thomas E. Harris, Vice Chairman; Joan D. Aikens; Danny Lee McDonald; John Warren McGarry; Frank P. Reiche; William F. Hildenbrand, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/523-4068 or toll-free 800/424-9530.

**KENTUCKY PRIMARY RESCHEDULED**

Kentucky will hold its Congressional primary election on May 29 instead of August 28, 1984. The new schedule for filing the 12-day pre-election report by committees supporting Congressional candidates in the primary is as follows:

| Closing Date of Books | Mailing Date of Report (if sent by registered or certified mail) | Filing Date |
|-----------------------|--|-------------|
| 5/9/84                | 5/14/84  | 5/17/84     |

Election and filing dates for all states were published in the February 1984 Record, on pages 2-3.

**POINTERS ON REPORTING**

Based on its review of reports filed with the FEC, the Commission's Reports Analysis Division offers the following pointers to help treasurers of political committees avoid reporting problems:

- File all required reports on time. Know when your reports are due and what reports must be filed.
- Be sure that all the detailed information required on the reporting schedules (e.g., schedules for receipts, disbursements and debts) is complete.
- Be sure that contributions from political committees are itemized on Schedule A, regardless of the amount.
- Do not stop reporting debts without explaining their final disposition. Commission Regulations require that all debts be fully itemized on Schedule C or D, regardless of amount, until they are completely repaid. Alternatively, if the Commission has reviewed the committee's debt settlement statement, the committee may stop reporting the debt once it has disclosed the final payment made to the creditor. 11 CFR 104.3(d) and 114.10.
- If your committee is a separate segregated fund, be sure to identify the connected (i.e., sponsoring) organization and any affiliated committees. If this information was omitted from the Statement of Organization, amend the Statement by sending a letter or by filling out another Form 1 with the new information.
- Review your report for mathematical errors. For instance, check the closing cash-on-hand figure from the previous report; this same figure should appear as the beginning cash-on-hand figure on the next report you file. Be sure that the "total" provided on the last line of each supporting schedule is recorded correctly on the appropriate line of the Summary and Detailed Summary pages.

Committees should also consult Commission Regulations and the Campaign Guide series. Each Guide has a special section explaining how to fill out forms. (Instructions are also given on the backs of the reporting forms.) Free copies of the Regulations and the Campaign Guides (one for Congressional candidates, another for party committees, still another for nonconnected committees and a fourth for corporations and labor organizations) may be obtained by writing: The Federal Election Commission, Public Communications Office, 1325 K Street, N.W., Washington, D.C. 20463 or by calling: 202/523-4068 or toll free 800/424-9530.

**INFORMATION****FEC LAUNCHES PILOT FOR REMOTE ACCESS TO CAMPAIGN FINANCE DATA**

On March 7, 1984, at a meeting of the Advisory Panel to the FEC's National Clearinghouse on Election Administration, the Commission announced a pilot program to provide state election offices with direct computer access to the FEC's campaign finance data base.

Citizens and media representatives in five cities will have direct access, through election day 1984, to the Commission's computerized information on the campaign finance activity of federal candidates, party committees and political action committees (PACs). Beginning with Atlanta, Georgia, the Commission will gradually add four other cities to the pilot program: Chicago, Illinois; Boston, Massachusetts; Los Angeles, California and Denver, Colorado. The Commission is uniquely equipped to provide broad public access to federal campaign finance information because the FEC alone makes publicly available all reports filed by political committees and persons involved in federal election activity.\* Much of this information is stored in the FEC's computer data base.

While following basic procedures established by the FEC, each participating election office will set its own rules for making FEC campaign finance information accessible to the public. Each

\*Political committees must file periodic disclosure reports with the Clerk of the House, the Secretary of the Senate or the FEC, as appropriate. All these reports are available to the public at the FEC.

office will have direct computer access to the following types of information:

- An index which cross references all records (including reports of receipts and disbursements) pertaining to federal candidates.
- An index which includes the name of each registered political committee, its identification number, a list of documents it has filed with the FEC and its total gross receipts and disbursements.
- An index of registered political committees which shows, for each committee: its connected organization; whether it is a qualified multicandidate committee; and all federal candidates the committee has supported, together with total contributions to and expenditures for or against each candidate.

The Commission will also make available computer printouts of FEC campaign finance information.

In selecting the five state election offices that will participate in the pilot program, the Commission took into consideration: each office's willingness to participate, the office's access to major media centers, the adequacy of its computer facilities and office space, and the staff's knowledge of computers. Moreover, to ensure a representative sampling of information users, the FEC chose election offices from both small and large states and from different geographic regions.

Following the general election, after the pilot program has ended, the Commission will survey each participating state election office to evaluate the program's usefulness. Based on survey results, the FEC will measure public and media demand for federal campaign finance information and send its final study to Congress.

## OPINIONS

### ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

| AOR | Subject |
|-----|---------|
|-----|---------|

|        |   |
|--------|---|
| 1984-7 | Corporation's obligation to make solicitation method available to union. (Date made public: February 16, 1984; Length: 7 pages) |
|--------|---|

| AOR | Subject |
|-----|---------|
|-----|---------|

- |         |   |
|---------|---|
| 1984-8  | Candidate's use of per diem rate to account for campaign-related travel expenses. (Date made public: February 24, 1984; Length: 1 page)   |
| 1984-9  | Independent status of county party political committee. (Date made public: February 28, 1984; Length: 3 pages, plus 1-page supplement)  |
| 1984-10 | Political participation program established by partnership which is federal contractor. (Date made public: February 29, 1984; Length: 6 pages)  |
| 1984-11 | Individual's eligibility for primary matching funds as Presidential candidate of several political parties. Deadlines for matching fund submissions. (Date made public: March 6, 1984; Length: 5 pages, plus 1-page supplement) |
| 1984-12 | Nonconnected political committee established by incorporated nonprofit association. (Date made public: March 12, 1984; Length: 6 pages, plus 22-page supplement)  |

### ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. 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 1983-48: Corporate PAC Solicitation of Personnel of Affiliated Partnerships and Corporations

Cablevision Systems Corporation (CSC) is a New York corporation wholly owned by its board chairman Charles F. Dolan. CSC, together with other corporations and limited and general partnerships, constitutes a privately held network of cable television system operators and companies. Under the election law, CSC may sponsor a separate segregated fund (a political action committee or PAC) to solicit contributions from CSC's solicitable personnel: i.e., its executive and admin-

*continued*

istrative personnel, its stockholder(s) and the families of both groups.

Under the election law, CSC may also solicit contributions from the solicitable personnel of those corporations and partnerships in the cable t.v. network that qualify as CSC affiliates. These cable t.v. network entities include:

1. **Twelve corporations that are owned or controlled by Mr. Dolan.** For purposes of PAC solicitations, a corporation's affiliates include any corporations that are wholly owned or controlled by the same corporation(s) or individual(s). 11 CFR 114.5(g)(1); AOs 1980-18 and 1982-18.
2. **Sixteen limited and general partnerships with which CSC is affiliated by virtue of Mr. Dolan's controlling general (or managing) interest in them.** For solicitation purposes, a corporation's affiliates are not limited to other corporate entities but may include other types of organizations which the corporation owns, controls or directs. 11 CFR 100.5(g)(2) and 110.3(a)(1). Mr. Dolan's controlling interest in these partnerships is evidenced by the substantial authority he has to influence their management and operations and those of the programming companies that serve them. Moreover, management agreements between CSC and the various partnerships reinforce his influence. CSC may solicit the executive and administrative personnel of CSC's affiliated partnerships, but may not solicit the corporate partners themselves.

CSC may not solicit the personnel of two other partnerships in the cable t.v. network because the partnerships do not qualify as CSC affiliates. Their management is controlled by neither Mr. Dolan nor a Dolan-controlled corporation. (Date issued: February 17, 1984; Length: 7 pages)

#### **AO 1984-1: Contribution Received After Death of Candidate**

The principal campaign committee of the late Representative Clement J. Zablocki, the Re-Elect Clement J. Zablocki to Congress Club (the Committee), may dispose of approximately \$40,000 in excess campaign funds -- including a contribution received after the death of Mr. Zablocki -- by donating the funds to §501(c)(3) nonprofit corporations which qualify as "charitable organizations" under §170(c) of the Internal Revenue Code. The Federal Election Campaign Act (the Act) specifically states that excess campaign funds may be used to make such charitable contributions. 2 U.S.C. §439(a). These donations are not affected by state laws since federal law preempts state laws with regard to the specific uses provided in the Act for excess campaign funds resulting from federal election campaigns.

The Committee may also donate excess campaign funds to other kinds of nonprofit organizations not specified by §439(a) (because they fall under the broad category of "any other legal purpose"), provided these donations are permissible under Wisconsin law.

The Committee may include in its excess campaign funds a contribution which the donor pledged before Congressman Zablocki's death but which the Committee received after his death. The contribution may be considered excess campaign funds because:

- The Committee is in a surplus cash position;
- The Committee has no 1984 primary debts to retire; and
- The Committee plans to discontinue its campaign activities and terminate, once it has disposed of its excess funds.

The Commission expressed no opinion on related tax issues because they are not within its jurisdiction. (Date issued: February 23, 1984; Length: 2 pages)

#### **AO 1984-2: Candidate's Use of Contributor Information in Report Filed by Unauthorized Committee Using His Name**

Representative Phil Gramm may use contributor information in campaign reports filed by Americans for Phil Gramm in '84, a political committee not authorized by him (the unauthorized committee), to prepare a mailing to the committee's contributors. The letter may inform them that he did not authorize Americans for Phil Gramm as his campaign committee and that Friends of Phil Gramm is his only authorized campaign committee. Although Mr. Gramm's letter may also suggest that contributors ask the unauthorized committee for contribution refunds, the letter may not solicit contributions for his authorized committee. Under these circumstances, such a solicitation would be prohibited by §438(a)(4) of the Act. This provision places restrictions on the use of information contained in FEC campaign finance reports in order to protect contributors from having their names used for contribution solicitations or for commercial purposes (e.g., list brokering). The provision is not intended, however, to prohibit the use of contributor information for other political purposes, such as correcting contributor misperceptions.

Since the contributions to the unauthorized committee were seemingly made with the expectation that they would be spent to influence Mr. Gramm's nomination, the contributions are subject to each donor's limits for the Gramm candidacy. Any disbursements Mr. Gramm's authorized

committee makes for the mailing would be reportable. See 2 U.S.C. §434(b) and 11 CFR 104.3 (b).

The Commission expressed no opinion on the specific language of the proposed letter. (Date issued: February 13, 1984; Length: 3 pages)

**AO 1984-3: Individual's Use of Political Trust Fund to Retire Debts of His 1980 Presidential Campaign**

Mr. Charles E. Finch, a 1980 Presidential primary candidate, may use a special political fund, the "Cliff Finch Colonel's Fund," to repay debts of his 1980 Presidential primary campaign (the Presidential committee). Since Mr. Finch established the fund in 1975 primarily for political purposes (i.e., the retirement of debts from his successful gubernatorial campaign), any trust funds he transfers to the Presidential committee would be considered state campaign funds rather than Mr. Finch's personal funds. Moreover, the trust fund and the Presidential committee are considered affiliated committees by virtue of Mr. Finch's control over both funds. (He has beneficial use of the trust fund.) 11 CFR 102.6(a). Because of this affiliation, unlimited funds may be transferred between the two political funds. The Act and Commission Regulations impose, however, certain requirements on both the trust fund and the Presidential committee, depending on the amount of funds transferred between them.

Specifically, if Mr. Finch transfers more than \$1,000 from the trust fund to the Presidential committee during the year, the fund must register, file reports and operate as a "political committee" under the Act. 2 U.S.C. §431(a)(A); 11 CFR 100.5 and 102.6(a). On its first report (which could also serve as the termination report), the trust fund, newly registered as a political committee, must disclose the source of all contributions on hand, on the basis of "last in, first on hand." The trust fund must be sure to exclude any impermissible contributions from its cash on hand. In addition, the trust fund must exclude any contributions from its cash on hand which, when added to contributions already made by the same donor to the Presidential committee, would cause the donor to exceed the per election, contribution limits. (Under Commission Regulations, affiliated committees share a single, per election contribution limit. 11 CFR 110.3(a)(i).)

On the same report, the trust fund must also disclose the transfer of these funds to the Presidential committee. The Presidential committee, in turn, would report the transfer as a "miscellaneous receipt" from the trust fund. The trust fund may also use the initial report as a termination

report by checking the appropriate box and providing the information required under 11 CFR 102.3.

This opinion supercedes AO 1978-35. (Date issued: February 23, 1984; Length: 4 pages)

**PRESIDENTIAL ELECTIONS**

**PRIMARY MATCHING FUND PAYMENTS**

The summary chart below provides cumulative information on certifications of primary matching funds made between January 1 and March 7, 1984.

**Primary Matching Fund Certification Activity\***

| Name of Candidate   | Number of Requests | Total Amount of Funds Certified |
|---------------------|--------------------|---------------------------------|
| Askew, Reubin       | 7                  | \$ 897,480.40                   |
| Cranston, Alan      | 11                 | 1,740,029.86                    |
| Glenn, John         | 7                  | 2,797,848.40                    |
| Hart, Gary          | 7                  | 938,904.56                      |
| Hollings, Ernest F. | 6                  | 753,683.98                      |
| Jackson, Jesse      | 2                  | 388,355.23                      |
| McGovern, George    | 1                  | 209,337.38                      |
| Mondale, Walter F.  | 10                 | 5,268,763.28                    |

**FEC TERMINATES MATCHING FUND ELIGIBILITY OF THREE CANDIDATES**

On March 8, 1984, the Commission determined that, as of March 1, three Democratic Presidential candidates were no longer eligible for primary matching funds under the Presidential Primary Matching Payment Account. Senators Alan Cranston and Ernest Hollings and Governor Reubin Askew became ineligible for public funds when they announced publicly that they would no longer actively campaign for their Party's nomination. 11 CFR 9033.5(a)(1).

These ineligible candidates may continue to receive primary matching funds to retire outstanding campaign debts incurred before the date of ineligibility and to pay for costs of winding down

*continued*

\*As of March 7, 1984.

their campaigns. They may receive federal matching funds for private contributions received and deposited **before** December 31, 1984, provided they submit a statement of net outstanding campaign obligations within 15 days after becoming ineligible. 11 CFR 9034.5. (Revised statements must be submitted with each additional request for matching funds.)

Any one of these candidates may reestablish eligibility for matching funds by submitting to the Commission evidence of active campaigning in more than one state. 11 CFR 9033.6(d) and 9033.8(a).

### FEC CERTIFIES ADDITIONAL CONVENTION FUNDING FOR MAJOR PARTIES

On February 29, 1984, the Commission approved the certification of an additional \$189,000 in federal funds to both the Republican and Democratic parties for their 1984 national Presidential nominating conventions. On March 1, the Commission forwarded the certifications to the U.S. Treasury, which will issue actual payments to each party's convention committee.\* The additional certifications bring each major party's total grant to \$6,060,000, the maximum entitlement each party's convention committee may receive to finance the 1984 Presidential nominating convention.

Under the Presidential Election Campaign Fund Act, each major party is entitled to \$3 million (plus a cost-of-living adjustment\*\*) to finance its Presidential nominating convention. 26 U.S.C. §9008(b). Since each party's convention committee is eligible to receive its grant in the year preceding its convention, in June 1983, the Commission certified \$5,871,000 to each convention committee, based on the 1982 cost-of-living adjustment. During February 1984, when figures became available on the 1983 cost-of-living adjustment, the Commission certified the additional funds for each convention committee.

\*To establish eligibility for a convention grant, the national committee of each major party must file an application statement with the FEC and register a convention committee. See part 9008 of FEC Regulations.

\*\*The cost-of-living adjustment (COLA) is calculated annually by the Secretary of Labor, using 1974 as the base year.

### PRESIDENTIAL NONFILERS

On March 6, 1984, the Commission published the names of two authorized Presidential committees (one authorized by a Presidential candidate and one, by a Vice-Presidential candidate) that had failed to file their respective January monthly reports. The monthly reports, due by February 20, should have covered each committee's financial activity for January.

## 800 LINE

This article responds to questions received by the Public Communications Office on the spending limits for publicly funded Presidential primary candidates, Presidential nominees and national Presidential nominating conventions.

### PRIMARY ELECTION SPENDING LIMITS

**What are the spending limits for Presidential candidates who accept public funding for their primary campaigns?**

Presidential primary candidates who become eligible for primary matching funds must comply with the following spending limits:

- National limit: campaign spending for all primary elections may not exceed \$10 million, plus the cost-of-living adjustment (COLA);
- State limit: campaign spending in each state may not exceed \$200,000, plus COLA; or a specified amount based on the number of voting age individuals in the state (plus COLA), whichever is greater;\* and
- Personal limit: spending from personal funds may not exceed \$50,000.

**What is the actual limit in 1984?**

In 1984, the COLA increased the national primary spending limit by \$10.2 million, bringing it to \$20.2 million.

**Are there any campaign expenditures which are exempt from the spending limits?**

Yes, the following expenditures do not count against the overall national spending limit:

\*A listing of the state-by-state spending limits for publicly funded Presidential primary candidates is available from the FEC's Office of Public Communications. Contact: 202/523-4042 or toll free 800/424-9530.



- Legal and accounting expenditures made solely to ensure compliance with the law; and
- A limited amount of certain fundraising expenses (up to 20 percent of the national spending limit).

#### GENERAL ELECTION SPENDING LIMITS

**What is the spending limit for a major party Presidential nominee who accepts public funding for the general election campaign?**

The Presidential nominee must limit campaign spending to \$20 million, plus COLA.

**What is the actual spending limit in 1984?**

In 1984, the COLA increased the spending limit by \$20.4 million, bringing it to \$40.4 million.

**Are there any campaign expenditures which a major party Presidential nominee may exempt from the spending limit?**

Yes. The following expenditures do not count against a major party candidate's spending limit:

- Legal and accounting expenditures\* made solely to ensure compliance with the election law; and
- Spending of up to \$50,000 from the candidate's own personal funds.

**Are minor and new party candidates\*\* who receive partial public financing subject to the same spending limit that applies to major party candidates?**

Yes.

**May minor and new party candidates claim the same exemptions from the spending limit that major party candidates may claim?**

Yes (see exemptions above). In addition, minor and new party candidates may exempt some fundraising costs: 20 percent of the national limit minus the amount of public funds received by the candidate. 11 CFR 100.8(b)(20)(i).

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*\*A publicly funded candidate may establish a special compliance fund for such expenditures. Although a publicly funded major party nominee may not, under the law, use private contributions to defray campaign expenditures, the nominee may accept private contributions for the compliance fund.*

*\*\*A minor party candidate is the nominee of a party whose candidate received between 5 and 25 percent of the total popular votes in the preceding Presidential election. A new party candidate is the nominee of a party that is neither a major party nor a minor party. A new party candidate receives partial public funding after the election if he/she receives 5 percent or more of the total popular votes in the current election.*

#### CONVENTION SPENDING LIMITS

**What is the spending limit for a national Presidential nominating convention which is publicly funded?**

The spending limit is \$3 million, plus COLA.

**What is the actual limit in 1984?**

In 1984, the COLA increased the convention spending limit by \$3.06 million, bringing it to \$6,060,000.

**Is the spending limit the same for both major and minor party Presidential nominating conventions?**

Yes.

**Are there any convention expenditures which are exempt from the spending limit?**

Yes. Certain supplemental services provided by the host city and state governments and by local groups (e.g., retail businesses and labor unions) do not count against the spending limit. The host city may, for example, provide additional public transportation to and from the convention site.

## CLEARINGHOUSE

#### FEC CLEARINGHOUSE ADVISORY PANEL MEETS IN WASHINGTON

On March 6 and 7, 1984, the Advisory Panel of the FEC's National Clearinghouse on Election Administration met in Washington to discuss problems associated with administering federal elections. The 17-member panel, comprised of state and local election officials, discussed several topics in their two-day session:

**Remote computer access to the FEC's data.** As a pilot study, the FEC will provide citizens in five states with remote computer access to the FEC's campaign finance data base. (See story on p. 4.)

**State workshops.** The Commission plans to conduct several state workshops explaining the election law to practitioners of federal election law and state election administrators. Modeled on the regional conference program conducted in 1983, the workshops will address the concerns of federal candidates, parties and PACs.

*continued*

**Voting System Standards Project** mandated by Congress. Preliminary results of the FEC's study point to the need to establish voluntary procedural performance standards for the various types of vote counting and recording systems used in the United States.

**Computers in elections.** The Clearinghouse will produce an inventory of current computer applications to election functions such as candidate filings, voter registration, ballot design and format, and vote counting.

**State Campaign Finance Laws.** The Commission has approved a project for updating a published compilation of state campaign finance laws and regulations.

**Federal legislation affecting election administration.**

- Report findings of the investigation to the court by February 21, 1984; and
- Assess for each Democratic primary candidate who participated in the Dartmouth College debate the amount of expenditures permissible in New Hampshire, once services and facilities provided by various groups had been counted against the candidate's New Hampshire spending limit.\*

## NEW LITIGATION

### FEC v. NCPAC

(Re: Caputo for Senate Committee)

On January 25, 1984, the FEC filed suit with the U.S. District Court for the Southern District of New York against the National Conservative Political Action Committee (NCPAC), a multi-candidate political committee not authorized by any candidate. The FEC's suit was precipitated by NCPAC's failure to enter into a conciliation agreement with the FEC within 30 days after the Commission had found probable cause to believe NCPAC had made excessive contributions to the 1982 Senate primary campaign of Bruce F. Caputo (R-NY). See 2 U.S.C. §437g(a)(6)(A). Both NCPAC and the Caputo for Senate Committee (the Caputo campaign) had used the same media consultant to develop strategy urging the defeat of the incumbent Senate candidate, Senator Patrick Moynihan (D-NY). The Commission concluded, therefore, that NCPAC's expenditures had been coordinated with the Caputo campaign and constituted in-kind contributions to the Caputo campaign rather than independent expenditures advocating Senator Moynihan's defeat.

In the current litigation, the FEC asked the district court to find that:

- NCPAC made contributions in excess of the \$5,000 limit to the Caputo campaign, in violation of 2 U.S.C. §441a(a)(2)(A); and
- NCPAC failed to report the contributions (amounting to \$73,755), in violation of 2 U.S.C. §434(b)(4)(H)(i).

The FEC also asked that the district court order NCPAC to:

- Amend its reports to reflect the excessive contributions;
- Pay a civil penalty of \$5,000; and

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\*Presidential primary candidates receiving public funds must agree to limit spending to a prescribed amount in each state. 11 CFR 110.8(a)(2).

## COURT CASES

### CONGRESSMAN ROSE v. FEC

On February 22, 1984, the U.S. District Court for the District of Columbia issued an order granting Congressman Rose's petition to dismiss a suit he had filed against the Commission on June 13, 1983. (Congressman Charles E. Rose v. FEC; Civil Action No. 83-1687). Pursuant to the election law's procedures for obtaining administrative relief, Congressman Rose had asked the court to issue an order directing the FEC to take final action on his administrative complaint within 30 days. (See 2 U.S.C. §§437g(a)(8)(A) and (C).) After the Commission petitioned the U.S. District Court for the Eastern District of North Carolina to enforce subpoenas issued as part of its investigation into Mr. Rose's complaint, he then requested that his suit be dismissed. (For a summary of the suit, see p. 10 of the August 1983 Record.)

### STEPHEN A. KOCZAK v. FEC

On February 14, 1984, the U.S. Court of Appeals for the District of Columbia Circuit denied Mr. Stephen A. Koczak's petition for a writ of mandamus compelling certain FEC actions. (Stephen A. Koczak v. FEC, Case No. 84-5086, February 9, 1984). In his suit, Mr. Koczak had asked the appeals court to order the FEC to:

- Complete, by February 17, 1984, its investigation of a complaint Mr. Koczak had filed with the FEC on January 17, 1984;

- Refrain from violating any provision of the election law.

U.S. District Court for the Southern District of New York, Docket No. 84 Civ. - 0866, January 25, 1984.

**FEC v. Gus Savage for Congress '82 Committee**

On January 6, 1984, pursuant to 2 U.S.C. §437g(a)(6)(A), the FEC filed suit against Gus Savage for Congress '82, the principal campaign committee of Congressman Gus Savage (D-IL), and Thomas J. Savage, the campaign's treasurer. The Savage campaign failed to enter into a conciliation agreement with the FEC within 30 days after the Commission had found probable cause to believe the campaign had violated the election law's reporting requirements.

In its suit, the FEC therefore asked the court to declare the Savage campaign had violated:

- 2 U.S.C. §§434(a)(2)(A)(i)-(ii) by failing to file certain reports during the 1982 election year (i.e., July and October quarterly reports, pre- and post-general election reports and a year-end report); and
- 2 U.S.C. §434(a)(2)(B)(i) by failing to file a mid-year report during the 1983 nonelection year.\*

The Commission further petitioned the court to:

- Enjoin the Savage campaign from further violations of the election law; and
- Assess a \$5,000 civil penalty against the campaign.

U.S. District Court for the Northern District of Illinois, Docket No. 84-1076, January 31, 1984.

\*Two semiannual reports are required during a nonelection year. 11 CFR 104.5(a)(2)(i).



**FEDERAL REGISTER NOTICES**

The items below identify FEC documents that appeared in the Federal Register during February and March 1984. Copies of the notices are available in the Public Records Office.

**Notice Title**

- 1984-3 11 CFR 9002.15: Presidential Election Campaign Fund; Denial of Rulemaking Petition (49 Fed. Reg. 4846, February 8, 1984)
- 1984-4 11 CFR 114.8: Trade Association Solicitation Authorization: Final Rule; Announcement of Effective Date (49 Fed. Reg. 4932, February 9, 1984)
- 1984-5 11 CFR Part 114: Communications by Corporations and Labor Organizations: Final Rule; Announcement of Effective Date (49 Fed. Reg. 7981, March 5, 1984)

**CHANGE OF ADDRESS**

**Political Committees**

Registered political committees are automatically sent the Record. Any change of address by a registered committee must, by law, be made in writing as an amendment to FEC Form 1 (Statement of Organization) and filed with the Clerk of the House, the Secretary of the Senate, or the FEC, as appropriate.

**Other Subscribers**

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2. Old address.
3. New address.
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