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BUDGET CUTS

On January 30, the Commission announced additional budget cuts of \$535,000 in fiscal year 1986, necessitated by the Gramm-Rudman-Hollings Act. Earlier, the agency's budget was cut \$323,000 on the assumption that there was going to be a 5 percent pay cut in Federal salaries. That assumption later proved false, but the funds were lost. The combined effect of the two reductions was a loss of \$858,000 from the President's original budget request of \$12,756,000. The Commission will absorb these cuts by reducing staff, contracts and other nonpersonnel disbursements. Commissioners made clear, however, that spending cuts will primarily affect programs which are not specifically mandated by the election law. The basic compliance and enforcement activities will remain intact.

More specifically, under the new austerity budget, the Commission will have to:

1. Eliminate from the data base information on:
 - o contributions from individuals;
 - o contributions from noncandidate committees to party committees;
 - o transfers among affiliated committees;
 - o loans;
 - o earmarked contributions; and
 - o joint fundraising activity.
2. Cancel the pre-election release of the Reports on Financial Activity (RFA), a summary of campaign activity in the first 18 months of the election cycle;

3. Remove the 1976, 1978, 1980 and 1982 data bases from current computer availability;
4. Reduce the timeliness of data entry;
5. End subsidization of state access to FEC data (now available in 10 states);
6. Curtail workshops, seminars and publications explaining the election law;
7. Terminate transcripts of Commission executive meetings (audio tapes will be available, however); and
8. Postpone the contract to update the Election Case Law, a Clearinghouse publication.

The Commission will nevertheless continue its mandated functions, including disclosure of reports within 48 hours, enforcement, audits, review of reports, advisory opinions and serving as a Clearinghouse for information on election administration. Although the agency will cancel its contract for entering into the computer detailed information on campaign finance reports, in-house staff will try to capture data on PAC contributions to candidates, independent expenditures and corporate/labor communication costs. Staff will also continue to answer questions about the law on the toll-free 800 line.

Impact of Cuts

Those who utilize FEC services will feel the impact of the cuts immediately. For example,

- o States that wish to continue to provide access to the FEC data base will have to absorb the costs for computer time or pass them on to users.
- o Researchers using FEC data (either at the Commission or through the on-line subscription service) will find the data much less comprehensive and less timely.

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NEW PHONE NUMBERS FOR INFORMATION, PRESS AND PUBLIC RECORDS

Beginning on February 18, new phone numbers go into effect for the following offices:

- o Public Records Office - 376-3140
- o Press Office - 376-3155
- o Information Services - 376-3120

At the same time, these offices will move to the Commission's new headquarters at 999 E Street, N.W. This completes the agency's relocation. Anyone calling the Commission from outside of the Washington, D.C. area should continue to use the toll-free number, 800/424-9530.

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ADVISORY 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

- 1985-41 PAC contribution designated for general election and accepted before primary. (Date made public: December 2, 1985; Length: 2 pages, plus 2-page supplement)
- 1985-42 Candidate's use of campaign funds to pay portion of apartment lease. (Date made public: December 16, 1985; Length: 1 page)
- 1986-1 Theater's compensation to campaign for cancellation of concert fundraiser. (Date made public: January 9, 1986; Length: 1 page)
- 1986-2 Candidate's profits from door-to-door sales used to support campaign. (Date made public: January 9, 1986; Length: 1 page, plus 3-page supplement)
- 1986-3 Committee's reporting of stock contribution sold on the open market. (Date made public: January 15, 1986; Length: 2 pages)

PUBLIC APPEARANCES

- 2/26 Michigan State Conference on Campaign Finance
Lansing, Michigan
Commissioner Joan D. Aikens
Bobby Werfel, Chief, Information Services
Kathlene Beuzard, Public Affairs Specialist
Anthony Raymond, Senior Reports Analyst
- 3/24 Ohio State Conference on State and Federal Campaign Finance Laws
Columbus, Ohio

AO 1985-31: Affiliation Between Insurance Corporation and Agencies for Purposes of PAC Solicitations

CIGNA PAC, the separate segregated fund of the CIGNA Corporation (CIGNA), an insurance corporation, may solicit the solicitable personnel of the COMPAR insurance agencies (the agencies) because the agencies are affiliated with CIGNA.

Under the Act and FEC Regulations, a separate segregated fund may solicit the executive and administrative personnel and the stockholders (and their families) of the corporation that establishes and administers the fund, as well as the solicitable personnel of any of the corporation's subsidiaries or affiliates. 2 U.S.C. §441b(b)(6); 11 CFR 114.5(g)(1). CIGNA and the COMPAR agencies are considered affiliated by virtue of the degree of influence CIGNA exercises over the agencies. (See 11 CFR 100.5 (g)(2) and 110.3(a)(1)(iii).) Specifically, under an agreement they have with CIGNA, the agencies may only sell CIGNA insurance policies, except in special cases when CIGNA approves the sale of other policies; CIGNA may revoke the agencies' authority to underwrite and issue policies; and, finally, CIGNA offers agencies extensive advisory and management services, as well as financial assistance.

In soliciting contributions from the agencies' solicitable personnel, CIGNA PAC must comply with FEC Regulations. See 11 CFR 114.5. Moreover, since CIGNA and the agencies are affiliated corporations, any separate segregated funds established by the agencies or by CIGNA would be considered affiliated political committees. Consequently, for purposes of the contribution limits, they would be considered a single committee subject to a single limit on contributions they receive and contributions they make. 2 U.S.C. §441a(a)(5); 11 CFR 100.5(g)(2) and 110.3. Commissioner Thomas E. Harris filed a dissenting opinion. (Date issued: November 22, 1985; Length: 6 pages, including dissent)

AO 1985-39: National Bank Ad in Political Club's Journal

The National Bank of New York City (the Bank) may not purchase advertising space in a political club's journal if the club uses the payments, directly or indirectly, in connection with any nominating procedure or election for any public office. 2 U.S.C. §441b(a); 11 CFR 114.2(a).

On the other hand, since this broad prohibition on contributions by national banks does not apply to contributions by individuals, an individual

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may purchase an ad (carrying the Bank's name) in the political club's journal, provided the Bank does not reimburse the purchaser by means of a bonus, an expense account or other form of compensation. 11 CFR 114.5(b)(1). If the political club is a political committee under the election law, the individual's payments for the ad will be considered a contribution to the political club. As such, the payments:

- o May not exceed the law's contribution limits (i.e., \$5,000 per year); and
- o Must be reported by the political club as a contribution from the individual. 2 U.S.C. §§434(b)(2) and (3).

The Commission suggested that an ad purchased by an individual should state that Bank funds were not used to pay for the ad, in order to avoid the appearance of its being sponsored by the Bank. (Date issued: January 13, 1986; Length: 2 pages)

AO 1985-41: Contribution Designated for General Election Accepted Prior to Primary

The Dante Fascell Campaign Committee, the principal campaign committee for Representative Fascell's 1986 reelection effort, may accept a \$3,000 contribution designated for the general election, even though the Fascell Committee previously accepted a \$5,000 contribution from the same multicandidate committee for the 1986 primary. This conclusion is conditioned by two requirements:

- o The Fascell Committee must account for the contribution separately in its records and reports. (In fact, the Fascell Committee plans to open a savings account for 1986 general election contributions and will not transfer the contribution to its checking account until after the 1986 primary election.)
- o The Committee must return the contribution to the multicandidate committee in the event Representative Fascell is not a candidate in the 1986 general election. AOs 1980-68, 1980-122 and 1982-49.

Under the election law, a campaign may accept up to \$5,000 from a multicandidate committee for the candidate's primary and, again, for the general election campaign. 2 U.S.C. §441a(2)(A); 11 CFR 110.2(a)(1). Moreover, FEC Regulations specify that a campaign may accept contributions designated for the general election prior to the primary election, provided the campaign uses a reasonable accounting method to distinguish between primary and general election contributions. 11 CFR 102.9(e). (Date issued: January 17, 1986; Length: 2 pages)

COURT CASES

ALWIN HOPFMANN v. FEC

On December 26, 1985, the Supreme Court denied a petition for a writ of certiorari filed by Alwin E. Hopfmann. Mr. Hopfmann had petitioned the Court to review a ruling by the U.S. Court of Appeals for the District of Columbia Circuit that: 1) the FEC's decision to dismiss his administrative complaint was "sufficiently reasonable" to merit the [appeals] Court's deference" and 2) the constitutional issues raised by Mr. Hopfmann were properly dismissed as frivolous.

For a summary of the appeals court's ruling on Mr. Hopfmann's challenge to the FEC's decision (*Alwin Hopfmann v. FEC*, CA No. 82-03667), see page 7 of the July 1985 Record.

FEC v. SAILORS' UNION OF THE PACIFIC POLITICAL FUND

On January 6, 1986, the U.S. District Court, Northern District of California issued an opinion granting defendants' motion for summary judgment in *FEC v. Sailors' Union of the Pacific Political Fund* (Civil Action No. 84-7763-WWS). The court ruled that the separate segregated funds of three maritime unions, the Seafarers' Union of the Pacific Political Fund, the Maritime Firemen's Union Political Fund and the Seafarers' Political Donation, were not affiliated. Accordingly, the defendant committees were not subject to a single \$1,000 limit on contributions they made to California Governor Jerry Brown's 1982 Senate primary campaign. (Affiliated political committees, on the other hand, are subject to a single contribution limit on both contributions they make and receive. 2 U.S.C. §441a(a)(5).)

Background

On December 10, 1984, the FEC filed suit against the defendant political committees in the district court. The Commission asked the court to:

- o Declare that, by virtue of their affiliation, the committees had violated 2 U.S.C. §441a(a)(2)(A) by, together, contributing more than \$5,000 to Governor Brown's primary; and
- o Order the three committees to disclose their affiliation by amending their respective statements of organization.

In its suit, the FEC argued that the three committees' respective parent organizations were affiliated on two grounds:

- o The parent organizations were parts of the Seafarers' International Union (SIU).
- o The parent organizations were subject to SIU's control.

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The defendant political committees contended, on the other hand, that the three unions were not controlled by SIU and, further, that the independent histories, structures and management of the unions demonstrated that they did not meet the criteria for affiliation.

Court's Ruling

The district court ruled that the member unions of the Seafarers' Union were an "association of independent unions" and, as such, were not affiliated. Accordingly, the unions' separate segregated funds were not affiliated political committees. The court found that "the [Seafarers] constitution embodies the rules that govern the relationship of these unions and those rules preserve their independence, a fact confirmed by the undisputed evidence of their past conduct." The court said that "other than having the power to collect dues, Seafarers has no power over the affairs of its member unions."

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o Individuals who want to attend Commission workshops may, instead, have to travel to Washington, D.C. to participate.

Commenting on the budget cuts in a memorandum to the Commissioners, the Staff Director observed:

Over the past several years, this agency has made great strides in improving the accuracy, timeliness and comprehensiveness of, and access to, our disclosure information. Reversing that trend is a severe step not lightly proposed. Many members of the general public, the press corps, academics and committees themselves have come to rely upon availability of this detailed information. Absent this data capture, the public will be denied the level of detail available in the past.

All of the data, however, remains on hard copy and could be entered into the computer at a later date. The Commission is hopeful that funds will be available to resume computer entry of itemized campaign finance data for the 1988 election. In effect, there will be a gap in the data base relating to the 1986 election. The agency will maintain, however, the infrastructure to conduct the full computer activity at any time funding is restored.

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