

RECORD

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COMMISSIONERS

FEC ELECTS NEW OFFICERS

On December 17, 1985, the Federal Election Commission unanimously elected Joan D. Aikens as Chairman and John Warren McGarry as Vice Chairman to serve one-year terms commencing January 1, 1986. Mrs. Aikens succeeded Commissioner McGarry in the Chairmanship. Mr. McGarry succeeded Mrs. Aikens as Vice Chairman.

Mrs. Aikens, a Republican, is one of the original members of the Commission. She previously served as FEC Chairman between May 1978 and May 1979. Before serving on the Commission, Mrs. Aikens was vice president of Lew Hodges/Communications, a public relations firm located in Valley Forge, Pennsylvania. From 1972 until 1974, she was president of the Pennsylvania Council of Republican Women and served on the board of directors of the National Federation of Republican Women. She served as alternate delegate-at-large to the 1972 Republican National Convention and, at the time of her appointment to the Commission, she was a member of the Pennsylvania Republican State Committee. She has been active in a variety of other volunteer organizations.

A native of Delaware County, Pennsylvania, Mrs. Aikens received her B.A. and honorary Doctor of Laws degree from Ursinus College, Collegetown, Pennsylvania.

Mr. McGarry, a Democrat, was first appointed to the Commission in 1978 by President Carter. In 1983, he was named to serve a second term, which is due to expire on April 30, 1989. He was Chairman of the Commission in 1981 and 1985. Before serving on the Commission, Mr. McGarry served as special counsel on elections to the Committee on House Administration of the U.S. Congress from 1973 to 1978. Prior to that, he combined private law practice with service as chief counsel for the Special Committee to Investigate Campaign Expenditures of the U.S. House of Representatives. (By special resolution, Congress recreated this committee every two years, through 1972, to oversee House elections.) From 1959 through 1962, he was an Assistant Attorney General of Massachusetts.

Mr. McGarry graduated cum laude from Holy Cross College in Massachusetts in 1952, did graduate work at Boston University and earned a Juris Doctor degree in 1956 from Georgetown Law Center.

REPORTS

PRIMARY ELECTION REPORTS DUE IN 1986

The chart on the following pages provides filing dates for primary election reports due during 1986. Note, however, that primary election dates are subject to change.

During 1986, reporting forms and additional information will be sent to all registered committees. Questions and requests for additional forms should be addressed to the Information Services Division, Federal Election Commission, Washington, D.C. 20463; 202/523-4068 or call toll free 800/424-9530.

continued

TABLE OF CONTENTS

COMMISSIONERS

- 1 New Officers Elected

REPORTS

- 1 Primary Reporting Deadlines
- 4 Election Year Reporting

REGULATIONS

- 6 Notice of Inquiry on "Soft Money" Issue

7 ADVISORY OPINIONS

STATISTICS

- 8 1984 Campaign Statistics on Computer Tapes

800 LINE

- 8 Transfer of Candidate Funds from State to Federal Committee

COURT CASES

- 10 Gramm v. FEC; FEC v. Gramm
- 10 FEC v. Mortgage Attorneys PAC
- 10 New Litigation

PRIMARY ELECTION REPORTS
CONGRESSIONAL

12-Day Pre-Election Report

State or Territory	Date of Election	Closing Date of Books	Mailing Date (if sent by registered or certified mail)	Filing Date
Alabama*	June 3	May 14	May 19	May 22
Runoff	June 24	June 4	June 9	June 12
Alaska*	August 26	August 6	August 11	August 14
American Samoa**	November 4	October 15	October 20	October 23
Runoff***	November 18	October 29	November 6	November 6
Arizona*	September 9	August 20	August 25	August 28
Arkansas*	May 27	May 7	May 12	May 15
Runoff***	June 10	May 21	May 29	May 29
California*	June 3	May 14	May 19	May 22
Colorado*	August 12	July 23	July 28	July 31
Connecticut*	September 9	August 20	August 25	August 28
Delaware	September 6	August 17	August 22	August 25
District of Columbia**	September 9	August 20	August 25	August 28
Florida*	September 2	August 13	August 18	August 21
Runoff	September 30	September 10	September 15	September 18
Georgia*	August 12	July 23	July 28	July 31
Runoff	September 2	August 13	August 18	August 21
Guam**	September 2	August 13	August 18	August 21
Hawaii*	September 20	August 31	September 5	September 8
Idaho*	May 27	May 7	May 12	May 15
Illinois*	March 18	February 26	March 3	March 6
Indiana*	May 6	April 16	April 21	April 24
Iowa*	June 3	May 14	May 19	May 22
Kansas*	August 5	July 16	July 21	July 24
Kentucky*	May 27	May 7	May 12	May 15
Louisiana*	September 27	September 7	September 12	September 15
General	November 4	October 15	October 20	October 23
Maine	June 10	May 21	May 26	May 29
Maryland*	September 9	August 20	August 25	August 28
Massachusetts	September 16	August 27	September 1****	September 4
Michigan	August 5	July 16	July 21	July 24
Minnesota	September 9	August 20	August 25	August 28
Mississippi	June 3	May 14	May 19	May 22
Runoff	June 24	June 4	June 9	June 12
Missouri*	August 5	July 16	July 21	July 24
Montana	June 3	May 14	May 19	May 22
Nebraska	May 13	April 23	April 28	May 1

PRIMARY ELECTION REPORTS
CONGRESSIONAL

12-Day Pre-Election Report

State or Territory	Date of Election	Closing Date of Books	Mailing Date (if sent by registered or certified mail)	Filing Date
Nevada*	September 2	August 13	August 18	August 21
New Hampshire*	September 9	August 20	August 25	August 28
New Jersey	June 3	May 14	May 19	May 22
New Mexico	June 3	May 14	May 19	May 22
New York*	September 9	August 20	August 25	August 28
North Carolina*	May 6	April 16	April 21	April 24
Runoff	June 3	May 14	May 19	May 22
North Dakota*	June 10	May 21	May 26	May 29
Ohio*	May 6	April 16	April 21	April 24
Oklahoma*	August 26	August 6	August 11	August 14
Runoff	September 16	August 27	September 1****	September 4
Oregon*	May 20	April 30	May 5	May 8
Pennsylvania*	May 20	April 30	May 5	May 8
Rhode Island	September 9	August 20	August 25	August 28
South Carolina*	June 10	May 21	May 26	May 29
Runoff***	June 24	June 4	June 12	June 12
South Dakota*	June 3	May 14	May 19	May 22
Runoff***	June 17	May 28	June 5	June 5
Tennessee	August 7	July 18	July 23	July 26
Texas	May 3	April 13	April 18	April 21
Runoff	June 7	May 18	May 23	May 26
Utah*	August 19	July 30	August 4	August 7
Vermont*	September 9	August 20	August 25	August 28
Virginia	June 10	May 21	May 26	May 29
Virgin Islands**	September 9	August 20	August 25	August 28
Washington*	September 16	August 27	September 1****	September 4
West Virginia	May 13	April 23	April 28	May 1
Wisconsin*	September 9	August 20	August 25	August 28
Wyoming	August 19	July 30	August 4	August 7

*States holding Senate races in 1986.

**The District of Columbia and the U.S. territories of American Samoa, Guam and the Virgin Islands will each hold an election for Delegate to the U.S. House of Representatives. In 1988, Puerto Rico will hold its next election for Resident Commissioner to the U.S. House of Representatives.

***Committees involved in the runoff elections held in Arkansas, American Samoa, South Carolina and South Dakota may use the filing date as the mailing date for their 12-day pre-runoff election report.

****Even though the mailing date for the report falls on a holiday, the report must be received by the filing date.

ELECTION YEAR REPORTING

The following paragraphs explain the reporting schedule for the various categories of filers during the 1986 election year. Accompanying charts on page 5 list the filing dates for reports required during 1986. Filing dates for primary election reports are listed separately on pages 2 and 3.

**Congressional Candidates
Active in 1986 Elections**

During 1986, principal campaign committees of candidates active in 1986 elections are required to file pre-primary and pre- and post-general election reports, as appropriate. They must also file quarterly reports. (For filing dates of reports, see page 5 below). In addition, any contribution of \$1,000 or more received by the candidate's committee between 2 and 20 days before an election must be reported in writing by the recipient committee within 48 hours after it is received. 11 CFR 104.5(f).

If the candidate has more than one authorized committee, the principal campaign committee must also file a consolidated report, FEC Form 3Z. For details, see page 14 of the Campaign Guide For Congressional Candidates and Committees or 11 CFR 104.3(f).

**Congressional Candidates
Not Active in 1986 Elections**

The principal campaign committees of candidates who will not be active in 1986 elections (i.e., committees authorized by candidates seeking election in future years or committees which were active in previous elections and have outstanding debts) must continue to report semiannually. (For filing dates of reports, see page 5 below.)

Note that campaigns with more than one authorized committee must also file a consolidated report. (See active Congressional Campaigns above.)

Presidential Committees

The principal campaign committees of Presidential candidates are required to report on either a monthly or quarterly basis during 1986. The FEC requests that Presidential committees which change their reporting schedule during 1986 notify the agency of their intention in writing.

Note that campaigns with more than one authorized committee must also file a consolidated report. (See Active Congressional Campaigns above).

Parties and PACs

All party committees and PACs (i.e., separate segregated funds and nonconnected committees) are required to file on either a quarterly or a monthly basis in 1986. (The reporting schedules for quarterly and monthly filers are detailed below.)

Those committees that choose to file quarterly must also file a post-general election report. In addition, quarterly filers that make contributions or expenditures to support specific candidates in 1986 elections must also file appropriate pre-election reports (primary, general or both) if their financial activity has not been previously disclosed. (For filing dates of reports, see below.)

Committees which file on a monthly schedule must file pre- and post-general election reports in lieu of their November and December monthly reports, and a year-end report, due January 31, 1986.

Any committee that plans to change its reporting schedule (from monthly to quarterly or from quarterly to monthly) must notify the Commission of its intention. The committee may notify the Commission by submitting a letter with the next report due under its current reporting schedule. A committee may not change its filing frequency more than once a year. 11 CFR 104.5 (c).

Note that any independent expenditures aggregating \$1,000 or more and made between 2 and 20 days before an election must be reported within 24 hours after the expenditure is made.

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

o 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.

The Record is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Danny Lee McDonald; Thomas E. Harris; Thomas J. Josefiak; Jo-Anne L. Coe, 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.

- o 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.
- o All other committees, including the principal campaign committees of Presidential candidates, file with the Federal Election Commission, Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

Filing with State Governments

- o 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.
- o 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 1986, reporting forms and additional information will be sent to registered committees. Questions and requests for additional forms should be addressed to the Information Services Division, Federal Election Commission, Washington, D.C. 20463; 202/523-4068 or call toll free 800/424-9530.

FILING DEADLINES

GENERAL ELECTION

Date of Election	November 4
Pre-Election Report	
Closing date of books:	October 15 ✓
Mailing date:	October 20
Due date:	October 23
Post-Election Report	
Closing date of books:	November 24 ✓
Mailing date:	December 4
Due date:	December 4

MONTHLY REPORTS

Report	Period Covered	Due Date (and mailing date if sent by registered or certified mail)
February	1/1 - 1/31	February 20
March	2/1 - 2/28	March 20
April	3/1 - 3/31	April 20
May	4/1 - 4/30	May 20
June	5/1 - 5/31	June 20
July	6/1 - 6/30	July 20
August	7/1 - 7/31	August 20
September	8/1 - 8/31	September 20
October	9/1 - 9/30	October 20
Pre-Election	10/1 - 10/15	October 23*
Post-Election	10/16 - 11/24	December 4
Year-End	11/25 - 12/31	January 31, 1987

QUARTERLY REPORTS**

Quarter	Close of Books	Due Date (and mailing date if sent by registered or certified mail)
First	March 31	April 15
Second	June 30	July 15
Third	September 30	October 15
Fourth (Year-End)	December 31	January 31, 1987

*Exception: The pre-election report must be postmarked no later than October 20, 1986 (i.e., three days before the filing date). 11 CFR 104.5 (c)(1)(ii) and (e).

**Committees may also have to file pre- and post-election reports. See text above.

REGULATIONS

"SOFT MONEY" ISSUE: NOTICE OF INQUIRY

On December 18, 1985, the Commission published a notice of inquiry in the Federal Register which seeks comments on several factual and legal issues raised by the use of undisclosed funds to influence federal elections (i.e., "soft money"). 50 Fed. Reg. 51535. In the notice, the agency announced that, on January 29 and 30, it will hold a public hearing on the "soft money" issue.

Comments on the notice of inquiry should be submitted in writing by January 17, 1986, to Ms. Susan E. Propper, Assistant General Counsel, Federal Election Commission, Washington, D.C. 20463. Those who are interested in testifying at the public hearing should so indicate on their written comments.

Since "soft money" is ostensibly raised and spent to influence state and local elections, the funds may contain donations that are prohibited or excessive contributions under the Federal Election Campaign Act (the Act). If these funds are ultimately used to influence federal elections, a violation of the Act may occur. In this regard, the public* has asked whether or not FEC Regulations: 1) provide for adequate disclosure of the funds and 2) adequately prevent evasion of the Act's contribution limits and prohibitions.

In response to these concerns, the Commission's notice of inquiry raises several issues concerning the use of "soft money" in federal elections.

1. Scope of Activity

To assist the Commission in assessing the scope of "soft money" activity, the agency seeks comments on the extent to which undisclosed funds are being used by individuals, political committees and organizations (including political parties, corporations and labor organizations) to influence federal elections.

2. Dual Accounts

FEC Regulations permit organizations to establish separate accounts (or committees) for federal and nonfederal election activity and disclose only those funds raised and spent by the federal account (or committee). Further, the regulations permit organizations to allocate administrative expenses between their state and federal accounts. The notice asks whether these rules

*See particularly *Common Cause's* rulemaking petition, filed November 6, 1984, which raises several issues concerning the use of "soft money" in federal elections.

adequately ensure public disclosure of funds ostensibly raised for state and local elections but ultimately used to influence federal elections?

3. Party Activities

FEC Regulations permit state party committees and local party committees and organizations* to engage in certain activities which benefit federal candidates but which are exempt from the definitions of "contribution" and "expenditure." See 11 CFR 100.7(b)(9), (15) and (17). If the party committee engages in these activities on behalf of both federal and nonfederal candidates, only that portion of the payments allocable to federal candidates must be paid from funds permissible under the Act. In this regard, the notice asks:

- o Which party activities should be considered federal-election related and therefore subject to the Act?
- o Apart from the exempted activities, which party activities are sufficiently unrelated to specific campaigns for federal office to be considered general party building activities, beyond the Act's purview?

4. Possible Action by the FEC

The notice also seeks comments on:

- o Whether the agency should initiate a rulemaking to address some or all of the issues raised by the use of undisclosed funds to influence federal elections;
- o The extent to which proposed rules would raise issues involving the Act's preemption of state laws; and
- o Whether any of the issues raised by the use of "soft money" in federal elections should be addressed by amending the Act rather than by revising FEC Regulations.

*Party organizations (not registered with the FEC) have no reporting obligations, but they must use permissible funds to finance exempt activities on behalf of federal candidates. When an unregistered local party organization spends more than \$5,000 a year for exempt activities, it must register and report as a political committee.

ADVISORY OPINIONS

ADVISORY OPINION REQUESTS

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

AOR Subject

- 1985-37 Affiliation of local chambers of commerce with state chamber; local chambers as collecting agents for state chamber's federal PAC. (Date made public: November 19, 1985; Length: 6 pages, plus 26-page supplement)
- 1985-38 PAC established by Congressman exclusively for support of state and local candidates. (Date made public: November 26, 1985; Length: 1 page, plus 5-page supplement)
- 1985-39 Bank advertisement in political club's journal. (Date made public: November 26, 1985; Length: 1 page, plus 4-page supplement)
- 1985-40 Expenditures by multicandidate committee on behalf of former Senator testing the waters for 1988 Presidential candidacy. (Date made public: November 26, 1985; Length: 7 pages)

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 1985-26: Corporation's Distribution of Employee's Political Message

General Mills, Inc. may distribute to its employees a message prepared by an employee that discusses the relative merits of various federal candidates, provided the employee reimburses the corporation within a commercially reasonable time for the usual and normal charge of the distribution. (The usual and normal charge would

be the commercial hourly or piecework charge for such services at the time they are rendered.) Distribution services would include printing labels, affixing them to written material and distributing the literature. 11 CFR 100.7(a)(1)(iii)(B) and 114.9(c).

General Mills has a policy of providing such services to its employees. In this case, however, if the corporation distributed the employee's political message at no cost, or at less than the usual cost, it would be making prohibited expenditures to influence the election of candidates named in the message. 11 CFR 100.8(a)(1)(iv)(A). (Date issued: November 14, 1985; Length: 3 pages)

AO 1985-32: Proceeds of Congressional Reception Beyond Act's Purview

To defray costs of a Congressional reception it plans to hold in conjunction with its conference, the Tenth International Congress of Essential Oils, Fragrances and Flavors will charge a nominal fee to reception attendees. Since reception proceeds will not be used to support the reelection of those House and Senate members in attendance, the proceeds and expenses of the event would not be considered reportable "contributions" or "expenditures" under the election law, provided:

- o Contributions are not solicited to, or accepted by, Congressional members attending the reception; and
- o Communications at the reception do not expressly advocate the members' election or defeat.

The Commission expressed no opinion on applicable House and Senate rules or tax laws because they are beyond its jurisdiction. (Date issued: November 14, 1985; Length: 2 pages)

AO 1985-33: Personal Loans to Candidate Intended for Campaign

When Representative Carliss Collins accepts personal loans for use in her reelection campaign, and proceeds to loan the funds to her principal campaign committee, she acts as the committee's authorized agent. 2 U.S.C. §432(e)(2); 11 CFR 101.2 and 102.7(d). Accordingly, the committee must report and itemize these receipts as loans from the original lenders, rather than as loans made by Representative Collins from personal funds. Similarly, in repaying the loans, the Committee must report and itemize them as disbursements to the original lenders. 11 CFR 104.3(a)(3) and (4); 104.3(b)(2) and (4); and 104.3(9).

The Commission noted that, since the original lenders are individuals rather than banks, the loans would be considered contributions to the extent of the unpaid balance. As such, they would be subject to the Act's limits and prohibitions on contributions. (Date issued: November 22, 1985; Length: 3 pages)

continued

AO 1985-34: Nonconnected PAC's Use of Proceeds from Life Insurance Policy on its Chairman

If the National Conservative Political Action Committee (NCPAC), a nonconnected political committee, purchases a life insurance policy for NCPAC's chairman, proceeds from the policy would not constitute contributions from the insurance company to NCPAC, provided the company:

- o Charges the usual and normal premium for the policy; and
- o Issues the policy in the normal course of business and in compliance with all applicable laws and regulations. 11 CFR 100.7(a)(1)(iii).

Accordingly, NCPAC may use proceeds from the policy for any lawful purpose, including expenditures and contributions made for federal elections.

The Commission noted that, since NCPAC had not stated whether the policy would be used as collateral for loans or for other purposes, the agency did not address any issues that might arise under such circumstances. (Date issued: November 22, 1985; Length: 2 pages)

AO 1985-35: Solicitability of Board Members of Employee-Owned Corporation

The Weirton Steel Corporation (Weirton) is wholly owned by the corporation's employees. Its directors, however, are not employee/shareholders. Nevertheless, those directors who receive an annual director's fee may be solicited for contributions to the Weirton Political Action Committee (the PAC), because they are considered executive personnel of the corporation.

For purposes of the Act and FEC Regulations, the board directors are considered solicitable executive personnel because they are compensated for their services on a salaried, rather than an hourly, basis. Their eligibility for PAC solicitations is not affected by the fact that: 1) their income is not subject to the federal withholding tax or 2) Weirton employees own all the shares in the corporation. (Dated issued: November 22, 1985; Length: 4 pages)

STATISTICS

1984 CAMPAIGN STATISTICS AVAILABLE ON COMPUTER TAPES

During December, the Commission announced the availability of computer tapes which contain final information on the 1984 campaign finance activities of candidates for the U.S. Senate and House, the Democratic and Republican parties and political action committees (PACs).

The prices for the tapes are: \$70 for U.S. Senate and House information; \$55 for Democra-

tic and Republican party committee information; and \$70 for PAC information. The tapes may be purchased from the FEC's Data Development Systems Division. For further information contact Bob Biersack by calling 202/376-5230.

This information has also been made available in published form. The five-volume study, FEC Reports on Financial Activity, 1983-84, Final Report, may be purchased at \$15 per volume. Separate volumes include information on: House and Senate races; party and PAC activity, summary information; state and local party activity; PAC activity of corporations and labor organizations; and PAC activity of nonconnected organizations, trade/membership/health organizations, cooperatives and corporations without stock.

Checks, made payable in advance to the FEC, should be sent to the FEC's Office of Public Records, Washington, D.C. 20463.

800 LINE

800 LINE

Transfer of Candidate Funds from State to Federal Committee

Frequently, state candidates decide to become candidates for Federal office. From time to time, they inquire as to whether they can use, as their initial source of capital, funds contributed to their State election committees. The following material addresses this matter.

General Rule

Candidates for Federal office are required to authorize one or more committees to receive contributions and make expenditures on their behalf. Authorized committees of the same candidate may transfer unlimited funds between each other.

In the case of a Federal candidate who was previously a candidate for State office, unlimited transfers may occur, under certain circumstances, between the candidate's State committee and his/her Federal committee. Any funds transferred from the State to the Federal committee, however, are subject to the limitations and prohibitions of the Federal Election Campaign Act (the Act). This means that State funds which include prohibited or excessive contributions may not be transferred to the Federal committees.

What limitations and prohibitions apply to contributions to Federal candidates?

1. Contribution limits may be summarized as follows:

Individual - \$1,000 per candidate per election

Political Committee - \$1,000 per candidate, per election

Multicandidate Committee* - \$5,000 per candidate, per election.

2. The following sources are prohibited from financing Federal elections: corporations, labor organizations, national banks, Federal government contractors and foreign nationals.

How can a State candidate committee demonstrate that the funds it transfers to the Federal committee are from permissible sources? The State Committee may:

1. Establish a separate account containing only those funds which comply with the limitations and prohibitions of the Act; or
2. Demonstrate through a reasonable accounting method that the State committee has received sufficient funds that are permissible under the Act to make the transfer. 11 CFR 102.5(b).

How can the State committee eliminate impermissible funds from its transfer to the Federal committee? The State committee eliminates impermissible funds by checking its records to determine the source and amount of its contributions. Suppose, for example, the State committee has \$8,000 in its bank account and wishes to transfer that entire amount to the Federal committee. The State committee would examine the records concerning the donations (aggregating \$8,000) most recently received in order to determine whether or not they were permissible. If any of the donations came from prohibited sources or exceeded contribution limits, they could not be transferred to the Federal committee. The amount of the transfer would have to be reduced accordingly. See, for example, AOs 1984-46 and 1985-2.

If the candidate's State committee transfers funds to the Federal committee, do contributions to the State committee count against the contributors' respective limits for the candidate's Federal election? Yes, if the original contributions to the State committee were made during the same election cycle in which the transfer was made to the Federal committee. AO 1982-52.

Who is responsible for making sure that the transfer does not cause contributors to both the State and Federal committees of the same candidate to exceed their limits? The State committee, the Federal committee and the treasurers of both.

**A multicandidate committee is any political committee with more than 50 contributors that has been registered for at least 6 months and, with the exception of State party committees, has made contributions to 5 or more candidates for Federal office.*

The committees must aggregate any contribution that might be transferred with contributions made by the same contributor to the federal committee during the same election cycle. If the aggregation indicates that this particular transfer would cause a contributor to exceed his or her limits for the candidate, the transfer would have to be reduced by the total amount of the excess.

Do the contribution limits apply to funds raised by the State committee in a previous election cycle but transferred during the current election cycle?

No. Funds raised by a State committee during a previous election cycle (e.g., during 1983-84) and later transferred to the Federal account would not count against an individual contributor's current limits for that candidate (e.g., 1985-86). AO 1977-24.

Will the transfers from the State to the Federal committee trigger a registration requirement?

They may. If the State committee transfers more than \$1,000 in a given calendar year to the Federal committee, it becomes a political committee under the Act. A political committee must register within 10 days after exceeding the \$1,000 threshold and file reports. To avoid having to register and report under the Federal law, a State committee may decide not to transfer more than \$1,000 to the Federal committee. 11 CFR 100.5.

If the State Committee transfers more than \$1,000 and registers under the Federal election law, would either committee have to disclose the original contributors of the transferred funds?

Yes. The State Committee (which has just become a registered political committee under the Act) would be responsible for disclosing the itemized information about contributors on its first report. On the disbursement side, it would show a transfer out to the candidate's Federal committee.

Would the candidate's Federal committee also have to disclose the contributors of the transferred funds? No, but it would report, as "miscellaneous" receipts, the full amount of the transferred funds. Detailed itemization of the contributors would not be required. AOs 1985-2 and 1984-46.

How long does the State committee (now registered under the Act) have to keep reporting?

The State Committee can use its very first report as its final report if it wishes merely to disclose the transfer and then cease to be active in Federal elections. The box on the reporting form should be checked to indicate that this report is a termination report.

continued

Does that mean the State committee no longer has a reporting obligation under the Act? Hopefully. Reports analysts will review the termination report. The State committee may be required to provide further information if the termination procedures are not followed. See 11 CFR 102.3.

Does the State committee, now Federal, still have to keep records? Yes. The treasurer must preserve all records and accounts for three years after the report, to which such records and accounts relate, is filed. 11 CFR 102.9.

If the State committee only transferred \$800 and therefore did not register, how would the transfer be disclosed by the recipient Federal committee? The entire \$800 would be disclosed as a "miscellaneous receipt" from the State committee. In addition, the committee should include a statement indicating the permissibility of the funds transferred.

COURT CASES

GRAMM v. FEC; FEC v. GRAMM

During October 1985, the U.S. District Court for the Northern District of Texas, Dallas Division, issued two rulings concerning an FEC audit of the Friends of Phil Gramm, the principal campaign committee for Texas Senator Phil Gramm's 1984 Senate campaign. On October 18, the court granted the FEC's motion to dismiss Friends of Phil Gramm v. FEC, a suit filed by the Gramm Committee challenging the audit. (Civil Action No. CA3-85-1164-7) On October 31, the court determined that the Committee must comply with the FEC's audit. (FEC v. Friends of Phil Gramm; Civil Action No. CA3-1507-7)

Background

In papers filed with the court, Friends of Phil Gramm (the Committee) alleged that, based on a complaint filed against the Committee and on information gathered through internal procedures, in March 1985 the Commission found "reason to believe" that the Committee had violated several provisions of the Federal Election Campaign Act (the Act). The agency then authorized an audit of the Committee to investigate whether the alleged violations had occurred. (The "reason to believe" finding is a statutory prerequisite to an investigation into possible violations.)

On June 19, 1985, the Gramm Committee filed a suit in the Northern District of Texas to enjoin the FEC from auditing the Committee. The Committee claimed that the Commission had to

begin the audit within the time frame established under Section 438(b) of the Act. The Commission argued that Section 438(b) (including its time limits) was not applicable to the Gramm audit, which had been authorized under Section 437g(a)(2). The Gramm Committee also contended that the Commission was required to attempt conciliation before conducting the audit.

Subsequently, the Commission subpoenaed certain materials necessary for the audit. When the Committee refused to comply, the Commission filed a suit which asked the Texas district court to enforce the subpoena.

District Court's Rulings

In its memorandum opinion of October 18, dismissing the Committee's suit, the court noted that the time limit of Section 438(b) "is inapplicable to an audit scheduled under §437" and found the audit "well within its [§437's] parameters." Rejecting the Committee's claim concerning conciliation, the court stated that "the FEC is entitled to conduct its audit and gather the necessary information...before it attempts to conciliate with the violator." In its October 31 ruling, the court determined that the Gramm Committee must comply with the FEC's subpoena.

FEC v. MORTGAGE ATTORNEYS POLITICAL ACTION COMMITTEE

On August 15, 1985, the U.S. District Court for the Eastern District of Louisiana approved a consent order between the Commission and defendants, the Mortgage Attorneys Political Action Committee, Inc. (MAPAC), a multicandidate committee, and MAPAC's assistant treasurer, Anna Atchley. Defendants acknowledged that they had violated sections 434(a)(4)(A)(iv) and 434(a)(4)(B) of the election law by failing to meet the statutory deadlines for filing the following reports: a 1981 mid-year report, six 1982 monthly reports and a 1982 pre-election report.

Defendants agreed to pay a \$450 civil penalty within 30 days of the court's order.

NEW LITIGATION

FEC v. Faith D. Eldredge

- The FEC asks the district court to:
- o Declare that Eldredge for Congress Committee, the principal campaign committee for Carlton Eldredge's 1984 House campaign, and the Committee's treasurer, Faith Eldredge, violated the election law by failing to file a quarterly report (2 U.S.C. §434(a)(2)(A)(iii));
 - o Assess a civil penalty against defendants amounting to the greater of \$5,000 or an amount equal to 100 percent of the amount involved in the violation; and

- o Permanently enjoin defendants from further violations of the election law.

U.S. District Court for the District of New Hampshire, Civil Action No. C-85655D, November 7, 1985.

FEC v. National Rifle Association of America

The FEC filed a civil action against:

- o The National Rifle Association (NRA), an incorporated membership organization;
- o The Institute for Legislative Action (ILA), NRA's lobbying arm; and
- o The Political Victory Fund (PVF), NRA's separate segregated fund.

The FEC claims that NRA and ILA violated the election law by making expenditures, on behalf of PVF, which influenced the elections of various federal candidates during 1978, 1980 and 1982. PVF subsequently reimbursed NRA and ILA for their respective expenditures.

The FEC asks the court to declare that:

- o In advancing corporate funds to federal candidates on PVF's behalf, NRA and ILA made prohibited corporate contributions, in violation of 2 U.S.C. §441b(a); and
- o In allowing NRA and ILA to make the expenditures, PVF accepted prohibited corporate contributions, in violation of 2 U.S.C. §441b(a).

The FEC also asks the court to enjoin NRA, ILA and PVF from further violations of the Act and to assess a civil penalty against each organization.

U.S. District Court for the District of Columbia, Civil Action No. 85-1018, March 29, 1985.

FEC v. Frederick Haley

The FEC asks the court to declare that:

- o Frederick Haley, et al. violated the election law by making excessive contributions to the Ted Haley Congressional Committee, the principal campaign committee for Theodore Haley's 1982 House campaign (2 U.S.C. §441a(a)(1)(A)); and
- o The Committee and its treasurer, Theodore Haley, violated the law by accepting the excessive contributions (2 U.S.C. §441a(f)).

The FEC further asks the court to:

- o Assess a civil penalty against each defendant amounting to the greater of \$5,000 or an amount equal to 100 percent of the amount involved in the violation; and
- o Permanently enjoin defendants from further violations of the election law.

U.S. District Court for the Western District of Washington, Civil Action No. C851185T, November 7, 1985.

INDEX

This cumulative index lists advisory opinions, court cases and 800 Line articles published in the Record during 1985. The first number in the citation refers to the "number" (month) of the Record issue; the second number, following the colon, indicates the page number in that issue.

OPINIONS

- 1984-16: One Limit for Convention & Primary, 1:3
- 1984-33: Fundraiser by Trade Association's Allied Members, 1:3
- 1984-41: Corporate Payments for Media Ads, 2:1
- 1984-48: Travel Reimbursements to State by Senate Campaign, 2:1
- 1984-52: Refund of Illegal Contributions, 1:4
- 1984-53: Real Estate Lessors as Federal Contractors, 1:4
- 1984-54: Reporting/Limits for Candidate Elected in Primary, 1:5
- 1984-55: Solicitation of Law Firm's Partners by Bank PAC, 1:5
- 1984-56: Book Payments & Honorarium, 1:5
- 1984-57: Corporate Communications on Legislation, 2:2

- 1984-58: City's Claim for Reimbursement by Presidential Campaign, 2:3
- 1984-59: Noncampaign Uses of Campaign Assets, 2:3
- 1984-60: Campaign Debts Liquidated through Sale of Real Estate Assets, 3:1
- 1984-61: Trade Association Solicitation Approvals, 3:2
- 1984-62: Campaign Firm's Slate Mail Program, 5:4
- 1984-63: Savings and Loan Association's Solicitations, 3:2
- 1985-1: Liquidation of Campaign Assets, 4:4
- 1985-2: State Funds Transferred to Congressional Campaign, 4:5
- 1985-3: Contributions to State Campaign by Subsidiary of Foreign Corporation, 4:5
- 1985-4: Payments not Honorarium, 4:5
- 1985-5: Contributions Made Before but Received After Election, 4:6
- 1985-6: Affiliated PACs of Local/International Unions, 4:6
- 1985-7: Solicitation of Wholesalers' Personnel, 5:4
- 1985-8: Fundraising to Refund Illegal Contributions, 5:5

- 1985-9: Excess Funds for University Programs, 5:5
- 1985-10: Campaign Loan Liquidated by Candidate's Estate, 5:5
- 1985-11: Trade Association's Non-solicitable Members, 6:4
- 1985-12: Trade Association's Collecting Agents, 6:5
- 1985-13: Transfers to Successor Candidate's Campaign, 7:5
- 1985-14: National Party Committee's Media Program, 7:6
- 1985-16: Prohibited Use of FEC Contributor Information, 7:6
- 1985-17: Congressional Scholarship Trust, 8:3
- 1985-18: Conversion to Federal PAC, 9:1
- 1985-19: Purchase of Computer System by Committee and Corporation, 10:3
- 1985-22: Excess Funds Used for Evening Attire, 10:3
- 1985-23: PAC Established by Corporation Owned by Partnership with Federal Contract, 10:4
- 1985-24: Unincorporated Membership Organization PAC, prohibited, 11:3
- 1985-25: Reattribution of Excessive Contributions to Spouse, 11:3

continued

INDEX

1985-27: Contribution limits for corporate PACs before and after affiliation, 12:3
 1985-28: Candidate's fundraising rebates from corporation, 12:4
 1985-29: Loans as contributions to candidate, 12:4
 1985-30: Candidate committee converted to multicandidate committee, 12:4

800 LINE

Foreign Nationals, 5:8
 Mailing Lists, 12:6
 State and Local Party Activities, 8:4
 Supreme Court Rules on 26 U.S.C. §9012(f), 4:1
 Use of Pseudonyms, 12:5
 Using Excess Campaign Funds, 2:4

COURT CASES

Antosh v. FEC, 2:4
 Carter/Mondale Presidential Committee v. FEC, 12:6
 Citizens for Percy '84 v. FEC, 1:6; 12:7
 Common Cause v. FEC, 12:7
 DCCC v. FEC, 2:6
 FCM v. FEC, 6:3
 FEC v. Anderson, 2:6; 8:8
 FEC v. Committee to Return Stack to Congress, 8:7
 FEC v. John A. Dramesi for Congress, 11:4
 FEC v. Furgatch; FEC v. Dominelli, 1:6
 FEC v. Gus Savage for Congress '82, 6:3
 FEC v. Hemenway for Congress Committee, 2:6

FEC v. Liberal Party Federal Campaign Committee, 3:3
 FEC v. Massachusetts Citizens for Life, Inc., 10:7
 FEC v. NCPAC, 5:6; second suit, 11:4
 FEC v. NRWC; NRWC v. FEC, 1:7
 FEC v. Kirk Walsh for Congress Committee, 6:3; 11:4
 FEC v. Allen Wolfson, 12:8
 FEC v. 1985 Victory Fund, 12:8
 Golar v. FEC, 12:7
 Alwin Hopfmann v. FEC, 7:7; 9:3
 LaRouche v. State Board of Elections, 8:7
 Maine Right to Life Committee v. FEC, 10:9
 National Congressional Club and Jefferson Marketing, Inc. v. FEC, 3:3
 NCPAC v. FEC, 10:9
 Orloski v. FEC, 2:5
 Sierra Club v. FEC, 9:3

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