

# RECORD

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## COMMISSIONERS

### NEW EX-OFFICIO COMMISSIONERS

During January and February 1987, Walter "Joe" Stewart, the new Secretary of the Senate, and Donald K. Anderson, the new Clerk of the House of Representatives, assumed positions as ex-officio, nonvoting members of the Commission.

Prior to assuming his position as Secretary of the Senate, Mr. Stewart was Vice President of Government Affairs for Sonat, Inc. Before that, he served as Secretary for the Minority of the U.S. Senate and as Executive Director of the Senate Steering Committee. Other Senate offices held by Mr. Stewart between 1963 and 1979 included: Counsel to the Senate Appropriations Committee, Director of Legislative Affairs for the Majority Whip, Administrative Assistant to the Majority Leader for Senate Operations and Chief of Staff for Senatorial and Presidential delegations traveling to China, Russia and the Middle East.

A Georgia native, Mr. Stewart received his undergraduate degree from George Washington University and an LLB from American University. He is a member of the District of Columbia Bar.

Before assuming his position as Clerk of the U.S. House of Representatives, Donald K. Anderson served for 15 years as Majority Floor Manager for the House. A California native, Mr. Anderson began his long career in the House with his appointment as a House Page in 1960.

### PUBLIC APPEARANCES

- |      |   |
|------|---|
| 4/9  | Business Industry Political Action Committee<br>Washington, D.C.<br>Vice Chairman Thomas J. Josefiak              |
| 4/29 | Citizens' Research Foundation<br>Washington, D.C.<br>Chairman Scott E. Thomas<br>Vice Chairman Thomas J. Josefiak |

## STAFF

### COMMISSION ACCEPTS RESIGNATION OF GENERAL COUNSEL

Charles N. Steele, General Counsel since December 1979 and senior FEC attorney since January 1976, has tendered his resignation effective March 1987. Mr. Steele leaves the Commission to accept the position of General Counsel for Conservation International, an organization dedicated to the preservation of the full array of species and ecosystems on earth.

Mr. Steele graduated from Harvard College and Harvard Law School. Prior to joining the Federal Election Commission, he was employed as a staff attorney with the appellate court branch of the National Labor Relations Board. Before serving as FEC General Counsel, Mr. Steele was Associate General Counsel for Enforcement and Litigation. During his tenure at the Commission, Mr. Steele played a key role in the public financing of four Presidential elections, defended the

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**GENERAL COUNSEL, continued from p.1**

Commission and the statute before the Supreme Court in numerous proceedings and supervised a staff of over sixty who render a full range of legal services to the Commission.

The Commission has initiated its search for a new General Counsel. This position, an Executive Level V, earns an annual salary of \$72,500. The General Counsel, who is appointed by majority vote, serves at the pleasure of the Commission.

Applicants should submit a resume and a completed Standard Form 171 to the Office of Personnel, Federal Election Commission, 999 E Street, N.W., Room 812, Washington, D.C. 20463. Applications must be postmarked no later than March 30, 1987.

**REPORTS**

**CALIFORNIA SPECIAL ELECTION**

On April 7, 1987, California will hold a special election in its fifth Congressional District to fill the seat vacated by the death of Representative Sala Burton. If no candidate obtains a majority of the votes, a special general election will be held on June 2, 1987.

Political committees authorized by candidates (candidate committees) who are participating in these special elections must file the appropriate pre- and post-election reports. The reporting schedule will depend on whether one or two elections are held. (See below.) Note that all other political committees which support candidates in the special election(s) (and which do not report on a monthly basis) must also follow the reporting schedule for the special election(s).

**If Only One Special Election Is Held**

If only one special election is held, candidate committees participating in the election must file pre- and post-special election reports and a mid-year report. (See Chart I below.)

**If Two Special Elections Are Held**

If both a special primary election and a special general election are held, candidate committees participating in both elections must file a

pre-primary election report, but they are not required to file a post-primary election report. Instead, they must file pre- and post-special general election reports. These committees must also file a mid-year report. (See Chart II below.)

Candidate committees involved in the special primary election, but who do not participate in the special general election, must file only pre-primary special election and mid-year reports. (See Chart III below.)

**CHART I  
Only One Special Election**

Report	Period Covered	Mailing Date	Filing Date
Pre-special	1/1*-3/18	3/23/87	3/26/87
Post-special	3/19-4/27	5/7/87	5/7/87
Mid-year	4/28-6/30	7/31/87	7/31/87

**CHART II  
Two Elections; Candidate Runs in Both**

Report	Period Covered	Mailing Date	Filing Date
Pre-primary	1/1*-3/18	3/23/87	3/26/87
Pre-general	3/19-5/13	5/18/87	5/21/87
Post-general	5/14-6/22	7/2/87	7/2/87
Mid-year	6/23-6/30	7/31/87	7/31/87

**CHART III  
Two Elections; Candidate Runs in Only One**

Report	Period Covered	Mailing Date	Filing Date
Pre-primary	1/1*-3/18	3/23/87	3/26/87
Mid-year	3/19-6/30	7/31/87	7/31/87

\*Committees should use this date, or the closing date of the last report filed, or the date of candidate status, whichever is later.

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Scott E. Thomas, Chairman; Thomas J. Josefiak, Vice Chairman; Joan Aikens; Lee Ann Elliott; Danny Lee McDonald; John Warren McGarry; Walter J. Stewart, Secretary of the Senate, Ex Officio; Donald K. Anderson, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

**NONELECTION YEAR REPORTING SCHEDULE**

Political committees should be aware that the reporting schedule changes in this nonelection year, 1987. Reporting requirements--and options, in some cases--are listed below. Filing deadlines for monthly and semiannual reports are detailed in the charts below.

**1. Candidate Committees**

Committees authorized by Congressional candidates report on a semiannual basis: July 31, 1987, and January 31, 1988.

**2. Presidential Candidate Committees**

Committees authorized by Presidential candidates report on either a monthly or a quarterly basis.

**3. PACs and Party Committees**

PACs and party committees report on either a semiannual or a monthly basis. Note: A PAC or party committee that wishes to alter its reporting schedule (for example, from monthly to semi-annually) should notify the Commission of its intention. Consult 11 CFR 104.5(c) for procedures.

Questions and requests for additional forms should be addressed to the Information Services Division, 999 E Street, N.W., Washington, D.C. 20463; or call 202/376-3120 or toll free 300/424-9530.

**MONTHLY REPORTS 1987**

Report	Period Covered	Filing Date*
February	1/1 - 1/31	2/20/87
March	2/1 - 2/28	3/20/87
April	3/1 - 3/31	4/20/87
May	4/1 - 4/30	5/20/87
June	5/1 - 5/31	6/20/87
July	6/1 - 6/30	7/20/87
August	7/1 - 7/31	8/20/87
September	8/1 - 8/31	9/20/87
October	9/1 - 9/30	10/20/87
November	10/1 - 10/31	11/20/87
December	11/1 - 11/30	12/20/87
Year-End 1987	12/1 - 12/31	1/31/88

**SEMIANNUAL REPORTS 1987**

Report	Period Covered	Filing Date*
Mid-Year	1/1 - 6/30	7/31/87
Year-End	7/1 - 12/31	1/31/88

\*The filing date is considered the mailing date if the report is sent by registered or certified mail. 11 CFR 104.5(e).

**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
1987-1	Campaign's compensation of lost wages to candidate. (Date made public: January 15, 1987; Length: 1 page, plus 2- page supplement)
1987-2	Campaign's purchase of car for candidate's reelection effort and official duties. (Date made public: January 15, 1987; Length: 1 page)
1987-3	Media firm's failure to transfer refund from broadcast corporation to Presidential campaign. (Date made public: January 27, 1987; Length: 1 page plus 7-page supplement)
1987-4	Excess funds transferred from officeholder's 1986 Senate campaign to his 1984 Presidential primary campaign for debt retirement. (Date made public: January 28, 1987; Length: 3 pages)
1987-5	Professional association PAC's solicitation of lifetime members who no longer pay dues. (Date made public: February 3, 1987; Length: 2 pages, plus 77-page supplement)
1987-6	Professional association's combined dues payment/solicitation statement. (Date made public: February 4, 1987; Length: 2 pages)
1987-7	Nonprofit corporation's financing and distribution to the general public of: 1) print materials similar to voting records and 2) voter guides that include issue discussion and election references. (Date made public: February 10, 1987; Length: 3 pages, plus 142-page supplement)

*continued*

## ADVISORY OPINIONS

continued from p. 3

### 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 1986-42: Effect of Corporate Reorganization on PACs' Multicandidate Status, Contribution Limits and Affiliation with Each Other

During 1986, the board of directors of Dart and Kraft, Inc. (DKI), a Delaware corporation, authorized a corporate reorganization of various DKI businesses through a stock distribution plan. During the reorganization, DKI established Premark International, Inc. (Premark) as a wholly-owned subsidiary. However, Premark subsequently remained an affiliate through the specific provisions of the reorganization. The Commission ruled on the impact of DKI's reorganization on the political committee status, disclosure requirements and contribution limits of: 1) DKI's separate segregated fund, Dart and Kraft PAC, and 2) a separate segregated fund established by Premark, Premark PAC.

#### DKI's PAC After the Reorganization

As a result of the reorganization, DKI became Kraft, Inc. Although the corporation must file an amended Statement of Organization reflecting a corresponding name change for its PAC (i.e., from Dart and Kraft PAC to Kraft PAC), the renamed PAC (Kraft PAC) will retain Dart and Kraft PAC's status as a multicandidate committee.\* 2 U.S.C. §432(e)(5) and 11 CFR 102.14(c) and AOs 1980-40 and 1985-27. Accordingly, contributions made by Dart and Kraft PAC before the corporate reorganization and contributions

made by Kraft PAC to the same candidates' campaigns after the reorganization are subject to a single \$5,000 limit.

#### Premark's PAC After the Reorganization

Under the Act and FEC Regulations, political committees are considered affiliated if they are established, financed, maintained or controlled by the same corporation. These affiliated committees are subject to a single contribution limit on both contributions they make and contributions they receive. See 2 U.S.C. §441a(a)(5); 11 CFR 110.3(a)(1)(i), (ii)(A) and (ii)(E).

Although Premark is no longer a wholly-owned subsidiary of Kraft, Kraft PAC and Premark PAC are considered affiliated committees for purposes of the contribution limits because DKI established and (acting now as Kraft) continues to control Premark. Specifically, before the stock distribution, DKI amended Premark's certificate and by-laws to perpetuate the DKI-elected board of directors and to make it more difficult for shareholders to acquire control of Premark.

Consequently, as affiliated committees:

- o Kraft PAC and Premark PAC must each amend their respective Statements of Organization to reflect their affiliation (2 U.S.C. §433(b)(2); 11 CFR 102.2(a)(1)(ii) and (b)(1)(ii)).
- o Premark PAC shares Kraft PAC's multicandidate status.
- o Kraft PAC and Premark PAC are, however, considered separate committees for reporting purposes. See AOs 1980-40 and 1985-6.
- o Kraft PAC and Premark PAC are subject to a single limit on contributions they make to a candidate's campaign (i.e., \$5,000 per election). Moreover, any contributions DKI PAC made to the same candidate's campaign before the reorganization also count toward the PACs' combined limit. (Date issued: January 16, 1987; Length: 6 pages)

#### AO 1986-44: Corporation's Plan to Match Employee Contributions to PAC with Corporate Donations to Charity

The Detroit Edison Company (the Company) may encourage contributions to its separate segregated fund, the Detroit Edison Political Action Committee (EdPAC), by matching each individual's contribution with a corporate donation to a charitable organization designated by the individual. In offering the plan, the Company and EdPAC must:

- o Limit the offer to solicitable employees (i.e., the Company's stockholders, executive and administrative personnel and their respective families) 2 U.S.C. §441b(b)(4)(A)(i) and 11 CFR 114.5(g)(1); and

\*A multicandidate PAC may contribute up to \$5,000 per election to each candidate and up to \$5,000 per year to any other nonparty political committees or \$15,000 to a national committee of a political party.

o Comply with the other solicitation requirements of FEC Regulations. 11 CFR 114.5(a).

The election law prohibits a corporation from making direct contributions or expenditures in connection with federal elections. 2 U.S.C. §441b. However, the law permits a corporation to pay for the solicitation costs of its PAC, provided the corporation does not use the solicitation process as a means of exchanging treasury funds for voluntary contributions. 2 U.S.C. §441b(a) and (b)(2)(C); 11 CFR 114.5(b). The Company's proposed plan to encourage employee contributions (subject to conditions stated in the opinion) does not constitute such a prohibited exchange. Employees will not receive direct payments (or any other financial benefits) from the Company in exchange for their EdPAC contributions. (Date issued: January 9, 1987; Length: 3 pages)

## COURT CASES

### FEC v. FURGATCH; FEC v. DOMINELLI

On January 9, 1987, the U.S. Court of Appeals for the Ninth Circuit ruled that two political ads which Mr. Harvey Furgatch placed in The New York Times and The Boston Globe shortly before the 1980 general election constituted communications which expressly advocated the defeat of President Jimmy Carter in his reelection bid. (FEC v. Harvey Furgatch; Civil Action No. 85-5524). In reversing the district court's decision in the case, the appeals court confirmed the FEC's claim that Mr. Furgatch should be held liable for violations of the election law resulting from: 1) his failure to report spending for the ads as independent expenditures\* and 2) his failure to state in one of the ads that the communication was not authorized by a candidate or a candidate's committee.

Since FEC v. Dominelli presented "facts virtually identical" to those addressed in the Furgatch suit, the appeals court also reversed the district court's ruling in that case. (FEC v. Dominelli; Civil Action No. 85-5525)

### Background

In filing suit against Mr. Furgatch on March 25, 1983, the FEC claimed that he had violated

*\*An independent expenditure is an expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made with the cooperation or prior consent of, or in consultation with, or at the request or suggestion of, any candidate or his/her authorized committees or agents. 11 CFR 100.16 and 109.1(a).*

the election law by failing to report his spending on the political ads as independent expenditures (amounting to approximately \$25,008). 2 U.S.C. §434(c). The FEC also claimed that Mr. Furgatch had violated section 441d of the law by failing to include an adequate disclaimer notice on the ad he had placed in The Boston Globe.

In December 1984, the district court ruled\* that the political ads sponsored by Mr. Furgatch did not expressly advocate President Carter's defeat and therefore did not constitute independent expenditures. The district court applied the standard contained in the Supreme Court's Buckley v. Valeo opinion. In Buckley v. Valeo, the Court had defined express advocacy as "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'" Buckley v. Valeo, 424 U.S. 1, 44 (1976).

Applying this express advocacy standard to Mr. Furgatch's ads, the court found that the pivotal question was "whether the phrase 'Don't let him do it' [was] the equivalent of the expression 'vote against Carter.'" The court concluded that the phrase "Don't let him do it" did not constitute express advocacy. The court found that the ad exhorted the reader not to let President Carter "hide his own record" or "degrade the electoral process and lessen the prestige of the office," but did not ask the reader to vote against the President.

On January 24, 1985, the FEC filed an appeal of the district court's decision with the U.S. Court of Appeals for the Ninth Circuit.

### Appeals Court's Ruling

In reversing the district court's ruling in the case, the appeals court rejected the "strictly limited" definition of express advocacy relied upon by the district court. (See discussion above.) Instead, the appeals court found that "context is relevant to a determination of express advocacy." The court therefore concluded that "[political] speech need not include any of the words listed in Buckley to be express advocacy under the Act, but must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." The appeals court stated that this standard for determining when political speech constitutes express advocacy would "preserve the efficacy of the Act without treading upon the freedom of political expression."

Elaborating on this standard, the appeals court held that a political communication constituted express advocacy if:

*continued*

*\*For a summary of the district court's ruling, see p. 6 of the January 1985 Record.*

1. The communication "is unmistakable and unambiguous, suggestive of only one plausible meaning," even if "not presented in the clearest, most explicit language";
2. The communication "presents a clear plea for action"; and
3. There can be no reasonable doubt about "what action is advocated."

Conversely, the appeals court held that "speech cannot be express advocacy of the election or defeat of a clearly identified candidate when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action."

In applying its express advocacy standard to Mr. Furgatch's ads, the appeals court held that it had "no doubt that the ads ask the public to vote against Carter." In reversing the district court's conclusion, the appeals court held that the "pivotal question is not what the reader should prevent Jimmy Carter from doing, but what the reader should do to prevent it [i.e., his reelection]." The appeals court noted that, although "we are presented with an express call to action" in the ad, we are not told "what action is appropriate." However, the court concluded, in the context of the message, "reasonable minds could not dispute that Furgatch's advertisement is urging readers to vote against Jimmy Carter." Moreover, the court held that its conclusion was "reinforced by consideration of the timing of the ad... timing the appearance of the advertisement less than a week before the election left no doubt of the action proposed."

Finally, the court held that Mr. Furgatch's ads were not the kind of "issue-oriented speech" excepted from the election law: "The ads directly attack a candidate, not because of any stand on the issues of the election, but for his personal qualities and alleged improprieties in the handling of his campaign. It is the type of advertising that the Act was enacted to cover."

The court did not rule on Mr. Furgatch's constitutional challenge to sections 434(c) and 441d of the election law because, in deciding the case on grounds of statutory construction, it had "implicitly" dealt with the free speech issues raised in his suit.

On January 23, 1987, Mr. Furgatch filed a petition with the court in which he asked the court to reconsider the suit and to rehear it with a full panel of judges.

#### **FEC v. BEATTY FOR CONGRESS COMMITTEE**

On January 15, 1987, the U.S. District Court for the Southern District of New York granted the FEC's application for a default judgment in FEC v. Beatty for Congress Committee (Civil Action No. 86-Civ-3894-[RLC]). The court's default judgment decreed that the Beatty for Congress Committee, the principal campaign committee for Vander L. Beatty's 1982 House campaign, and the committee's treasurer, Edward Myers, Jr., violated the election law by:

- o Knowingly accepting excessive contributions from individuals and from a political committee (2 U.S.C. §441a(f));
- o Knowingly accepting an excessive loan from the candidate's family and failing to report the loan (2 U.S.C. §§434(b)(3)(E) and 441a(f)) and 11 CFR 104.11(a);
- o Accepting prohibited contributions from corporations and labor organizations (2 U.S.C. §441b); and
- o Accepting corporate loans and failing to report them (2 U.S.C. §§441b and 434(b)(3)(E) and 11 CFR 104.11(a)).

The court also found that the Committee violated the law's recordkeeping and reporting requirements by:

- o Failing to file two 1982 quarterly reports on time (2 U.S.C. §434(a)(2)(A)(iii));
- o Failing to file 1982 pre-primary and year-end reports and a 1983 mid-year report (2 U.S.C. §§434(a)(2)(A)(i) and (iii)) and 434(a)(2)(B)(i));
- o Failing to maintain adequate records of contributions (2 U.S.C. §§432(c)(1)-(3));
- o Failing to itemize certain contributions and expenditures (2 U.S.C. §§434(b)(3) and (4) and 434(b)(5) (A)); and
- o Failing to continuously report two loans until extinguished (11 CFR 104.11(a)).

The court imposed a \$5,000 civil penalty on defendants for each violation and required defendants to pay the FEC's court costs and attorney's fees.

#### **FEC v. 1984 VICTORY FUND**

On January 27, 1987, the U.S. District Court for the Southern District of New York granted the FEC's application for a default judgment against the 1984 Victory Fund, a nonconnected PAC, and the Fund's treasurer, Vincent G. Downing.

As part of the judgment, the court ordered the defendants to pay a \$5,000 civil penalty to the U.S. Treasurer. The court also enjoined the defendants from further violations of the election law's reporting provisions.

In filing suit against the Fund and its treasurer in May 1986, the FEC claimed that the defendants had violated the election law by failing to file a 1984 October quarterly report, a 1984 post-election report and a 1984 year-end report. (2 U.S.C. §§434(a)(4)(A)(i) and (iii).) (FEC v. 1984 Victory Fund; Civil Action No. 86-Civ.-3891)

## INFORMATION

### CALCULATING SPENDING LIMITS

In preparing for the 1988 election year, Presidential candidates who plan to apply for primary matching funds may wish to estimate the total amount of campaign funds they will be able to spend: 1) nationwide during the entire primary election period and 2) in each state in which they run in a primary election.\* Similarly, national and state party committees may wish to estimate the total amount of coordinated (§441a(d)) expenditures\*\* they may spend on behalf of their respective Presidential and Congressional candidates in the 1988 general elections. Although the information needed to calculate the 1988 spending limits will not be available until February 1988, Presidential campaigns and party committees may use information recently issued as a basis for developing informal estimates of the 1988 spending limits. These estimates can then be readjusted when the 1988 information becomes available.

Note, however, that coordinated party spending limits for 1987 special elections are based on 1987 information. Those limits are listed in Section IV below.

#### I. Information Used To Calculate Spending Limits

The specific figures needed to calculate the 1987 limits are:

- o The Voting Age Population (VAP) for each state, supplied by the Department of Commerce. The state-by-state VAP figures used for calculating the 1987 spending limits are listed in Chart I on pages 8 and 9.
- o The 1986 Cost of Living Adjustment (COLA): 2.223. (The COLA is based on the annual change in the Consumer Price Index, as certified by the Secretary of Labor, using 1974 as the base year. Since 1975, the COLA has sometimes resulted in significant increases in spending limits. See, for example, Chart II on coordinated party spending limits for House candidates.)

\*Presidential candidates who accept public funds for their primary campaigns are subject to both an overall limit on their campaign spending and a state-by-state limit. 2 U.S.C. Section 441a (b); 11 CFR 9035.1(a)

\*\*Coordinated party expenditures are limited, special expenditures which party committees may make on behalf of their nominees in general elections. 2 U.S.C. Section 441a(d); 11 CFR 110.7.

Using these two figures--VAP and COLA--Presidential primary campaigns and party committees can determine what the spending limits would be if the elections were held in 1987. These unofficial estimates can then be adjusted when the 1988 information becomes available.

The limits can be calculated by using the statutory formulas explained below.

#### II. Formula For Presidential Primary Limits

- o **National limit** (all primary elections): \$10 million multiplied by COLA.\*
- o **State limit:** \$200,000, multiplied by COLA; or \$.16 x the VAP in the state, multiplied by COLA, whichever is greater.
- o **Candidate's personal limit:** \$50,000. (No COLA adjustment is made to this limit.)

#### III. Formula For Coordinated Party Expenditure Limits

##### Spending Limits for House and Senate Nominees

The national\*\* and state party committees\*\*\* may each make coordinated party expenditures on behalf of the party's House and Senate nominees in the general election.

- o **House of Representatives candidate** in state with more than one district: \$10,000 multiplied by COLA.
- o **For House candidate** in state entitled to only one representative: \$20,000 multiplied by COLA; or \$.02 x VAP in the state, multiplied by COLA, whichever is greater.
- o **Senate candidate:** \$20,000 multiplied by COLA; or \$.02 x the VAP in the state, multiplied by COLA, whichever is greater.

*continued*

\*In 1987, this amount is estimated to be \$22,230,000 but is subject to adjustment based on 1988 information.

\*\*A party's national committees share a single limit for coordinated party spending on behalf of each of the party's Congressional candidates.

\*\*\*State party committees are subject to separate spending limits for Senate and House general election candidates in their respective states. Within a state, all expenditures made on behalf of one candidate by the state party committee and any subordinate party committee (e.g., county, district, local) are subject to one spending limit. If a state party committee designates a national party committee to make its coordinated party expenditures, the state party committee still remains responsible for ensuring that the limit is not exceeded.

**Spending Limits for Presidential Nominees**

A national party committee\* may also make coordinated party expenditures on behalf of the party's Presidential nominee in the general election. National party committees may use the statutory formula below to determine what the spending limits would be if the election were held in 1987. This informal estimate can then be adjusted when 1988 information becomes available.

**Presidential Candidate:** \$.02 x the VAP of the U.S., multiplied by COLA.\*\*

**IV. Coordinated Party Expenditure Limits In 1987 Special Elections**

The 1987 COLA is 2.223. By using this figure in the formulas given above, the FEC has now determined the 1987 party expenditure limits, as follows.

- o **House of Representatives Candidate** in state with more than one district: \$22,230.\*\*\*
- o **House of Representatives Candidate** in state with only one representative: \$44,460 or \$.02 x VAP in the state, multiplied by 2.223 (1987 COLA), whichever is greater.
- o **Senate Candidates:** \$44,460 or \$.02 x VAP multiplied by 2.223 (1987 COLA), whichever is greater.

The FEC will send reporting notices to party committees in those states holding special elections during 1987.

**V. How To Obtain More Information**

The 1988 spending limits will be published in the Record during the first quarter of 1988. Questions and requests for more information may be addressed to: The Information Services Division, FEC, 999 E Street, N.W., Washington, D.C. 20463; 800/424-9530 or locally 376-3120.

*\*In the Presidential elections, only the national committee may make coordinated expenditures on behalf of the party's Presidential nominee. Separate spending limits apply to expenditures made by national party committees for Congressional and Presidential nominees. If the national committee designates a state or subordinate party committee to make its Presidential or Congressional expenditures, the national committee nevertheless remains responsible for ensuring that the limit is not exceeded.*

*\*\*In 1987, this amount is estimated to be \$7,905,299.22, but is subject to adjustment based on 1988 information.*

*\*\*\*This limit also applies to candidates for Delegate or Resident Commissioner in American Samoa, the District of Columbia, Guam, Puerto Rico and the Virgin Islands.*

**CHART I  
VOTING AGE POPULATION BY STATE**

State	VAP (in thousands)
Alabama	2,938
Alaska	358
Arizona	2,405
Arkansas	1,728
California	19,949
Colorado	2,396
Connecticut	2,438
Delaware	475
Florida	9,071
Georgia	4,422
Hawaii	773
Idaho	682
Illinois	8,471
Indiana	4,013
Iowa	2,095
Kansas	1,792
Kentucky	2,715
Louisiana	3,150
Maine	871
Maryland	3,359
Massachusetts	4,480
Michigan	6,675
Minnesota	3,075
Mississippi	1,842
Missouri	3,733
Montana	588
Nebraska	1,154
Nevada	740
New Hampshire	769
New Jersey	5,761
New Mexico	1,023
New York	13,437
North Carolina	4,740
North Dakota	484
Ohio	7,905
Oklahoma	2,379
Oregon	1,990
Pennsylvania	9,031
Rhode Island	751
South Carolina	2,460
South Dakota	503
Tennessee	3,572
Texas	11,792
Utah	1,046
Vermont	401
Virginia	4,337
Washington	3,271
West Virginia	1,415
Wisconsin	3,508
Wyoming	348



**CHART I**  
**VOTING AGE POPULATION BY STATE**

District of Columbia & Territories	VAP (in thousands)
American Samoa	19
District of Columbia	495
Guam	75
Puerto Rico	2,038
Virgin Islands	64

**CHART II**

Year*	COLA**	House Spending Limit with two or more districts
1975		\$10,000
1976	1.091	10,910
1977	1.154	11,540
1978	1.229	12,290
1979	1.323	13,230
1980	1.472	14,720
1981	1.671	16,710
1982	1.844	18,440
1983	1.957	19,570
1984	2.020	20,200
1985	2.106	21,060
1986	2.181	21,810
1987	2.223	22,230

\*In any given year, COLA is based on statistics pertaining to the previous year, using 1974 as the base year.

\*\*Number multiplied by statutory limit to obtain spending limit for that year.



**AFTER THE ELECTION:  
WINDING DOWN**

**Introduction**

The Commission frequently receives inquiries from candidate committees regarding debt settlement and termination procedures. In particular, committees have had questions about the disposal of their assets. In response to those questions, the following article discusses relevant Commission Regulations and advisory opinions. For further information, the reader should refer to the regulations and opinions cited, bearing in mind that an advisory opinion applies only to those in the same circumstances as the person requesting the opinion.

**I. Sale of Committee Assets**

**Sale of Campaign Property.** Normally, when a political committee sells its property, the purchase price is considered a contribution to the committee. In several advisory opinions, however, the Commission has said that a candidate's campaign committee may sell certain types of campaign assets, and the purchase is not considered a contribution to the committee provided the materials are sold at the "usual and normal charge," as defined in 11 CFR 100.7(a)(1)(iii)(B). AO 1985-1. See also AO 1986-14.

**Mail Lists.** The Commission has also permitted under certain circumstances the sale of mailing lists. In Advisory Opinion 1979-19, the FEC stated that a political committee may sell its contributor list to corporations, unions, candidates and other political committees. A contribution does not result when a mailing list is sold at the "usual and normal charge." In another advisory opinion, the Commission said that a committee could sell its mailing list (on computer tape) for the "usual and normal charge" to a corporation without the receipts being considered a contribution. AO 1981-53.

The Commission has also allowed the principal campaign committee of a Presidential candidate to transfer its mailing list, free of charge, to the national committee of his party. The transfer was not a contribution since it was viewed as the equivalent of the committee's excess campaign funds. AO 1981-11. See also AOs 1982-41 and 1981-46 and the article "Mailing Lists" on page 6 of the December 1985 Record.

*continued*

**Sale of Fundraising Materials.** By contrast, the sale of a committee asset originally purchased as a fundraising device results in a contribution to the committee. In Advisory Opinion 1979-76, for example, the Commission prohibited a political committee from selling books to a corporation because the committee had used the books as fundraising items. The sale would have resulted in a prohibited corporate contribution to the committee.

**Commercial Ventures.** The Commission has also taken the position that when a sale is part of an ongoing commercial venture, producing revenue for the campaign, the transaction results in a contribution to the committee. AO 1983-2.

## II. Receiving Contributions After the General Election

**Contributions Designated for Debts.** Candidates may receive contributions after the general election to retire either primary or general election debts, provided the donor designates the contribution for the specific debt being retired (primary or general); and the contribution does not exceed net outstanding debts.\* Such contributions count against the contribution limits applicable to the designated election and the year in which the election was held. 11 CFR 110.1(a)(2).

**Undesignated Contributions.** Undesignated contributions made after the general election are presumed to be for a future primary election and count against the limits applicable to the future election. 11 CFR 110.1(a)(2).

## III. Debt Settlement

If a candidate or committee fails to pay a campaign debt in a timely fashion consistent with normal business or trade practice, the debt in effect becomes a contribution made by the creditor to the candidate or committee, unless the creditor has made a commercially reasonable attempt to collect the debt. 11 CFR 100.7(a)(4) and 114.10(e). Contributions made under such circumstances may violate the Act. For example, if a committee indebted to a corporation fails to pay the debt, the debt may result in a prohibited contribution from the corporation. Or, as another example, continued nonpayment of a debt owed to a person who may lawfully make contributions may cause the creditor to exceed the Act's \$1,000 per election contributor limit.

**Debt Settlement Statement.** If a debt owed to a creditor, either corporate or noncorporate, is settled for less than the amount owed, the debtor

(committee) must file a debt settlement statement with the FEC. This statement is subject to Commission review and must include:

- o The steps taken by the committee to pay the debt;
- o The steps taken by the creditor to obtain payment of the debt;
- o The terms of the settlement; and
- o An indication that the creditor is in agreement with the terms of the settlement.

After the Commission determines that the proposed debt settlement would not result in a violation of the Act or Commission Regulations, the agency will notify the committee that it may stop reporting the debt, provided it has disclosed the final payment made to the creditor.

Note that, when a creditor and committee disagree on the amount that the committee actually owes, but later reach an agreement on the correct amount of the debt, a debt settlement statement is not required provided the committee pays the agreed-upon debt. Nor is a statement necessary if the amount originally reported as owed to a creditor is later reduced because the original amount was an estimate that exceeded the actual cost to the committee for the goods or services. Under these two circumstances, the committee is not required to submit a statement but must report any change in debt status on Schedule D as an amendment to its report. FEC Directive 3, July 22, 1982.

**Rules for Corporate Creditors.** A corporate creditor may not forgive debts "for less than the amount owed" unless the creditor and debtor have treated the debt in a commercially reasonable manner. This means that:

- o Credit was extended "in the ordinary course of business" with terms substantially similar to those granted to nonpolitical debtors of similar credit risk;
- o The debtor has made all reasonable efforts to retire the debt; and
- o The creditor has pursued remedies in a manner similar to those used to seek payment from nonpolitical debtors. 11 CFR 100.7(a)(4) and 114.10.

## IV. Termination of Political Committees\*

### Who is Eligible to Terminate.

- o A political committee is eligible to terminate its registration (and reporting obligation) only when all its debts and obligations have been extinguished and after it no longer intends to receive any contributions or make any expenditures.

\*Debts and obligations owed by a reporting political committee after deducting cash on hand and other assets.

\*Excerpted, in part, from the *FEC Campaign Guide for Congressional Candidates and Committees*, June 1985.

- o A principal campaign committee is eligible to terminate only when it has satisfied these same requirements and when all the debts of other authorized committees have been extinguished. 11 CFR 102.3.

**How to Terminate.** Political committees may terminate their reporting status at any time by filing a Termination Report. It may be filed on FEC Form 3 (or Form 3X) or by a written statement containing the same information. 11 CFR 102.3(a). The Termination Report must disclose:

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

After the Commission has reviewed the committee's Termination Report and determined that the committee meets the termination requirements, the agency notifies the committee.

## INDEX

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## 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

Record subscribers (who are not political committees), when calling or mailing in a change of address, are asked to provide the following information:

1. Name of person to whom the Record is sent.
2. Old address.
3. New address.
4. Subscription number. The subscription number is located in the upper left hand corner of the mailing label. It consists of three letters and five numbers. Without this number, there is no guarantee that your subscription can be located on the computer.

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