

**RECORD**

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**ADVISORY OPINION REQUESTS**

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

**AOR 1990-9**

Publication of public affairs newsletter by candidate as sole proprietor. (Date made public: May 15, 1990; Length: 9 pages, including attachment)

**AOR 1990-10**

Disaffiliation between PACs of parent corporation and its bankrupt subsidiary. (Date Made Public: May 23, 1990; Length: 21 pages, including attachment)

**AOR 1990-11**

Disposal of excess campaign assets (silver belt buckles) by 1988 Presidential campaign. (Date Made Public: May 24, 1990; Length: 2 pages)

**FEC STAFF TO VISIT HONOLULU**

As part of the Commission's state outreach program, FEC public affairs specialists will be in Honolulu August 6-7 to answer questions on the Federal Election Campaign Act and FEC regulations. They will meet with candidates, campaign workers and the staffs of PACs and party committees. Individuals involved in the September 22 Hawaii special election and anyone else interested in the rules on federal campaign finance may schedule a meeting with the FEC's visiting staff. Call FEC specialists Dorothy Hutcheon or Patricia Klein at 800/424-9530 or 202/376-3120.

**ADVISORY OPINION SUMMARIES****AO 1990-4: Use of Credit Cards to Charge Combined Dues/Contribution Payments**

The American Veterinary Medical Association (AVMA), an incorporated membership organization, may collect combined payments of membership dues and contributions to its separate segregated fund (AVMAPAC) through credit card charges. This method of collecting PAC contributions will not result in prohibited contributions since AVMA plans to deposit payments charged to professional corporation accounts into a separate fund used to defray AVMAPAC's administrative expenses.

(continued)

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Under the proposed plan, AVMA will act as a collecting agent for AVMAPAC, depositing the combined dues/contribution payments into a holding account (considered an AVMA corporate account) and then transmitting to the PAC a check representing the total of noncorporate money contributed to AVMAPAC. This procedure is consistent with FEC collecting agent regulations, provided AVMA forwards to the PAC both the contributions and the required contributor information within certain time limits. Contributions of \$50 or less must be forwarded within 30 days of AVMA's receipt, and contributions exceeding \$50 must be forwarded within 10 days. 11 CFR 102.6(c)(4) and (5) and 102.8(b).

The Commission has previously permitted contributions made by credit cards. AO 1978-68; see also AOs 1989-26 and 1984-45. AO 1990-4, however, makes clear that the date of receipt for a contribution made by credit card is the date that AVMA receives the member's authorization to charge dues and a contribution to his or her credit card account. This date is considered the date upon which AVMA obtains possession of the contribution. (See 11 CFR 102.8(b)(2).) In this respect, AO 1990-4 supersedes AO 1978-68, which stated that the date of receipt was the date when the recipient committee's account received a credit or deposit of the proceeds.

Because individual members of AVMA may use credit cards issued to their incorporated practices, AVMA plans to deposit this corporate money into a "corporate" AVMAPAC account used only for the PAC's administrative expenses. This is a permissible use of corporate payments, based on FEC rules and past advisory opinions. Commission regulations permit an incorporated membership organization to use "general treasury monies, including...dues monies or membership fees, for the establishment, administration, and solicitation of contributions to its separate segregated fund." 11 CFR 114.5(b). Furthermore, the Commission has previously

permitted members of an incorporated trade association to provide funds or merchandise to the association or to a separate administrative account for the purpose of defraying the administrative and solicitation expenses of the association's separate segregated fund. AOs 1986-13, 1982-36 and 1980-59. The Commission has also permitted individual members of a membership organization to use their professional corporation accounts to defray administrative costs of the organization's separate segregated fund. AO 1982-61. Accordingly, funds from a professional corporation controlled by an individual AVMA member may be deposited into an administrative account used solely for administrative and solicitation expenses of the PAC.

AVMA may absorb all credit card fees since they are considered administrative and solicitation expenses. 11 CFR 102.6(c)(2)(i). (Date issued: May 4, 1990; Length: 5 pages)

**AO 1990-6: Preemption of Oregon Law Prohibiting Charitable Matching Plan for PAC Contributions**

Pacific Power and Light (PP&L) may implement a plan to match employees' contributions to its federal separate segregated fund (PAC) with charitable donations since the Federal Election Campaign Act preempts an Oregon law prohibiting such a plan.

Oregon law prohibits the application of "undue influence" to induce a person to make a political contribution and defines "undue influence" to include "giving or promising to give money, employment or other thing of value." Oregon State Statutes, section 260.665. As written, the provision applies to federal-election contributions as well as nonfederal contributions. According to the Oregon Elections Division, PP&L's plan to match the full value of employees' contributions to its federal PAC with a donation to a 501(c)(3) charity chosen by the contributor would

Federal Election Commission, 999 E Street, NW, Washington, DC 20463  
800/424-9530 202/376-3120 202/376-3136 (TDD)

Lee Ann Elliott, Chairman  
John Warren McGarry, Vice Chairman  
Joan D. Aikens  
Thomas J. Josefiak  
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Scott E. Thomas

Walter J. Stewart, Secretary of the Senate,  
Ex Officio Commissioner  
Donnald K. Anderson, Clerk of the House of  
Representatives, Ex Officio Commissioner

constitute a "thing of value" to an employee and could induce an employee to contribute.

Past advisory opinions regarding corporate matching plans have viewed a corporation's payment of matching charitable donations as an exempt solicitation expense, payable by a separate segregated fund's connected organization under 2 U.S.C. §441b(b)(2)(C). AOs 1989-9, 1989-7, 1988-48, 1987-18 and 1986-44. PP&L may rely on those opinions to conduct its own plan.

Concerning the preemption issue, the legislative history of the Act makes clear that federal law occupies the field with respect to the limitations and prohibitions on contributions and expenditures used in federal elections. (H.R. Rep. Nos. 93-1239 (p. 10) and 93-1438 (p. 69), 93d Cong., 2d Sess. (1974).) See 2 U.S.C. §453; 11 CFR 108.7. The Act therefore preempts the Oregon statute or any state law, or interpretation of state law, prohibiting the use of a charitable matching plan to raise funds for use in federal elections only. See also AO 1982-29.

Commissioners McDonald and Thomas plan to file concurring opinions. (Date issued: May 21, 1990; Length: 4 pages)

## LEGISLATION

### AMENDMENTS TO ETHICS REFORM ACT

Technical amendments to the Ethics Reform Act of 1989<sup>1</sup> restore several provisions of the 1978 Ethics in Government Act concerning the filing of candidates' personal financial disclosure reports. Signed into law by President Bush on May 4, 1990 (Public Law 101-280), the amendments ("Technical Corrections") also revise the Federal Election Campaign Act provision on honoraria, 2 U.S.C. §441i.

### Personal Financial Disclosure

Under the new law, all House and Senate candidates, including nonincumbents, will continue to file reports disclosing their

<sup>1</sup>The changes brought about by the Ethics Reform Act of 1989 were summarized in past Record issues: February 1990 (repeal of grandfather clause); April 1990 (personal financial disclosure and honoraria); and May 1990 (correction to April 1990 article).

personal finances with the Clerk of the House or the Secretary of the Senate, and the Congressional ethics committees will continue to review those reports. (The 1989 provision, now repealed, would have required nonincumbent House and Senate candidates to file personal financial reports with the FEC, which would have been responsible for reviewing them.) Still effective is the longstanding requirement that nonincumbent Presidential and Vice Presidential candidates file their personal financial reports with the FEC.

The 1990 amendments do not affect other provisions of the 1989 Ethics Reform Act that govern the filing of candidates' personal financial reports. Under one provision, which will become effective in January 1991, the filing requirement for candidates will apply only to those individuals who have met the definition of "candidate" under 2 U.S.C. §431(2).<sup>2</sup> Under another provision, also effective January 1991, a personal financial report will be due within 30 days after the individual becomes a "candidate" or on May 15 of the election year, whichever is later, but in no event <sup>3</sup>later than 30 days before the election.

### Honorarium Amendment

The 1990 technical amendments also change 2 U.S.C. §441i, excluding from the definition of honorarium any amounts accepted for the travel and subsistence expenses of a child accompanying the honorarium recipient. The amendment became

(continued)

<sup>2</sup>Under the Ethics in Government Act of 1978 (in effect until January 1991), an individual becomes a "candidate" for purposes of filing a personal financial report when he or she (1) has taken action necessary under state law to qualify for election or (2) has filed a Statement of Candidacy (FEC Form 2 or letter containing the same information) pursuant to 2 U.S.C. §432(e) (1).

<sup>3</sup>Still effective until January 1991 is the requirement that candidates file a personal financial report within 30 days of becoming a candidate during the election year or by May 15 of the election year, whichever is later, but in no event later than seven days before the election.

effective on May 4, 1990. Thus, the travel and subsistence exemption now applies to the honorarium recipient and to a child or spouse or aide accompanying the recipient.

The Ethics Reform Act of 1989 previously amended section 441i by limiting its application to the Senate—that is, to honoraria accepted by Senators and officers and employees of the U.S. Senate. That amendment will become effective January 1, 1991.

## COURT CASES

### FEC v. WORKING NAMES, INC. (87-2467-GAG)

On May 10, 1990, the U.S. District Court for the District of Columbia granted the FEC's petition to hold Working Names, Inc., and its President, Meyer T. Cohen, in contempt of court for failing to pay civil penalties. In a May 1989 default judgment, the court had ordered defendants to pay a \$2,000 civil penalty included in a conciliation agreement (MUR 1542) and had imposed an additional \$2,000 civil penalty plus court costs. (See the July 1988 Record for a summary of the default judgment.) However, defendants paid only \$100 toward the penalties.

Under the terms of the court's May 1990 order, defendants must pay \$75 per day for each day the assessments remain unpaid. The late charge will increase to \$150 per day after June 17, 1990. Additionally, defendants must pay interest on the unpaid civil penalties and court costs.

(A new suit filed against Working Names is summarized under New Litigation, below.)

### FEC v. FRIENDS OF ISAIAH FLETCHER COMMITTEE

On May 18, 1990, the U.S. District Court for the District of Maryland ordered the Friends of Isaiah Fletcher Committee and its treasurer, Mr. Fletcher, to begin paying a \$5,000 civil penalty that had remained outstanding since the court imposed it on April 24, 1989. (Civil Action No. FN 88-2323.) In that ruling, the court found that the committee had violated 2 U.S.C. §434(a)(2)(A) by failing to file a 1986 quarterly report. The court ordered defendants to pay a \$5,000 penalty and the FEC's court costs. (See the June 1989 Record for a summary of the judgment.)

On March 27, 1990, the FEC filed a petition asking the court to (1) hold defendants in contempt for their failure to

pay the assessments and (2) order defendants to pay the interest that had accrued on the penalty. The court denied the motion but ordered defendants to begin paying the assessments in monthly installments of \$300 each beginning June 15, 1990. The court also ordered Mr. Fletcher to file a statement profiling his financial situation.

## NEW LITIGATION

### FEC v. Working Names, Inc. (90-1009-GAG)

The Commission asks the district court to declare that Working Names, Inc., and its President, Meyer T. Cohen, knowingly and willfully violated 2 U.S.C. §438(a)(4) by making commercial use of information copied from reports maintained by the Senate Office of Public Records.

The FEC claims that Working Names compiled a list of potential contributors from disclosure reports filed with the Senate Office of Public Records. The list allegedly included two fictitious names<sup>1</sup> taken from a 1983 report filed by the Senator Lloyd Bentsen Election Committee. The FEC further claims that Working Names marketed the mailing list to brokers, who, in turn, rented the list to at least 17 organizations. Because Mr. Cohen, as President of Working Names, had previously signed a conciliation agreement in MUR 1472 in which he admitted to past violations of §438(a)(4), the Commission contends that Working Names and Mr. Cohen were aware of the prohibitions against the sale/use restriction on information copied from reports, and that the violation was therefore knowing and willful.

The Commission asks the court to assess the penalty for a knowing and willful violation (the greater of \$10,000 or 200 percent of the amount involved in the violation; see 2 U.S.C. §437g(a)(6)(C)). The Commission also asks that the court award the FEC court costs and permanently enjoin defendants from further violations of the sale/use prohibition.

U.S. District Court for the District of Columbia, Civil Action No. 90-1009, April 30, 1990.

<sup>1</sup>FEC rules permit a political committee to use up to ten fictitious names in a report as a method of determining whether the names and addresses of individual contributors are being used illegally. 11 CFR 103.4(e).

**FEC v. Mann for Congress Committee**

The Commission asks the district court to declare that the Mann for Congress Committee and its treasurer, Terry L. Mann, failed to comply with the terms of a conciliation agreement entered into on December 19, 1988. (The committee was the principal campaign committee of Mr. Mann, a 1986 House candidate.) Under the terms of the 1988 agreement, the committee and Mr. Mann, as treasurer, agreed to refund \$17,746 in excess contributions, disclose the refunds on FEC reports and pay a \$5,000 civil penalty. The Commission claims that defendants have not made any payments toward the civil penalty and have not filed any reports showing that they refunded the excess amounts to the contributors. The Commission therefore asks the court to:

- o Order defendants to comply with the conciliation agreement and pay interest on the \$5,000 penalty;
- o Assess additional penalties against defendants;
- o Permanently enjoin them from future violations of the conciliation agreement; and
- o Award the FEC court costs.

U.S. District Court for the District of Columbia, Civil Action No. 90-1154, May 16, 1990.

## AUDITS

**AUDIT REPORT ON LAROCHE CAMPAIGN RELEASED**

On May 17, 1990, the Commission approved the final audit report on the LaRouche Democratic Campaign, the publicly funded committee of Lyndon LaRouche, a 1988 Presidential primary candidate. Based on the results of the audit, the Commission made an initial determination that the campaign repay a total of \$154,894 in public funds to the U.S. Treasury. The repayment total is based on the audit findings summarized below.

If the campaign does not dispute the initial determination within 30 days, the determination becomes final, and the campaign must make the repayment to the U.S. Treasury within 90 days of the initial determination.

Final audit reports are available for review in the Public Records Office.

**Matching Funds Received in Excess of Entitlement**

The audit determined that the campaign had received \$109,149 in matching fund payments to which the candidate was not entitled because the funds were in excess of the campaign's net debts as of his date of ineligibility, as defined in 11 CFR 9033.5. After that date, a candidate may receive matching funds only to the extent of the campaign's net outstanding campaign obligations. 11 CFR 9038.2(b)(1)(i).

**Stale-Dated Committee Checks**

Audit staff identified nine stale-dated committee checks, totaling \$1,161, that had never been cashed by the payees. Under 11 CFR 9038.6, the total amount of such outstanding committee checks are repayable.

**Expenses Incurred After Date of Ineligibility**

Commission regulations provide that expenses incurred after a candidate's date of ineligibility are not considered qualified campaign expenses unless they relate to winding down costs. Expenses incurred before the date of ineligibility for goods or services received after that date are also considered nonqualified campaign expenses. 11 CFR 9034.4(a)(3) and (b)(3). The audit report found that the LaRouche campaign had incurred \$213,789 in non-qualified campaign expenses. Under 11 CFR 9038.2(b)(2)(iii), a ratio repayment formula is used to determine what portion of nonqualified campaign expenses were defrayed with public funds (as opposed to private contributions). Application of this formula yielded a repayment amount of \$40,950.

**Expenditures in Excess of the Limit**

Funds spent in excess of a state limit are also considered nonqualified campaign expenses, subject to the ratio repayment formula. 11 CFR 9034.4(b)(2) and 9038.2(b)(2)(ii)(A) and (iii). The audit report revealed that the campaign had exceeded the New Hampshire expenditure limit by \$59,034. For purposes of determining the amount of the repayment, certain reductions were made to the amount spent in excess of the limit. (For example, \$22,680 was subtracted because these expenses were paid after the campaign accounts no longer contained any matching funds.) Using the adjusted figure (\$18,973) in the repayment formula, the amount subject to repayment was calculated to be \$3,634.

**PUBLICATIONS**

**1990 DISCLOSURE DIRECTORY**

On May 1, 1990, the FEC released the fifth edition of the Combined Federal/State Disclosure Directory, a reference tool identifying where to locate reports or information on:

- o Campaign finance;
- o Personal finances of officials and candidates;
- o Lobbying;
- o Corporate registrations;
- o Public financing;
- o Spending on state initiatives and referenda;
- o Candidates on the ballot;
- o Election results;
- o Voting accessibility; and
- o Election-related litigation.

The directory covers both federal and state government offices. The 1990 edition includes two new sections listing state legislative committees dealing with election law and similar committees involved in ethics legislation.

To order a copy of the 1990 Directory, call the Public Records Office: 800/424-9530 or 202/376-3140.

**PUBLIC APPEARANCES**

- 7/16-20 Conference of Canadian Election Officials  
St. John's, Newfoundland  
Chairman Lee Ann Elliott
- 7/29-8/2 Council of State Governments  
Manchester, New Hampshire  
N. Bradley Litchfield,  
Associate General Counsel  
for Policy
- 8/1 Iowa State Association of County Auditors  
Cedar Rapids, Iowa  
William Kimberling,  
Clearinghouse on Election Administration
- 8/16 Bellcore  
Livingston, New Jersey  
N. Bradley Litchfield,  
Associate General Counsel  
for Policy

**STATISTICS**

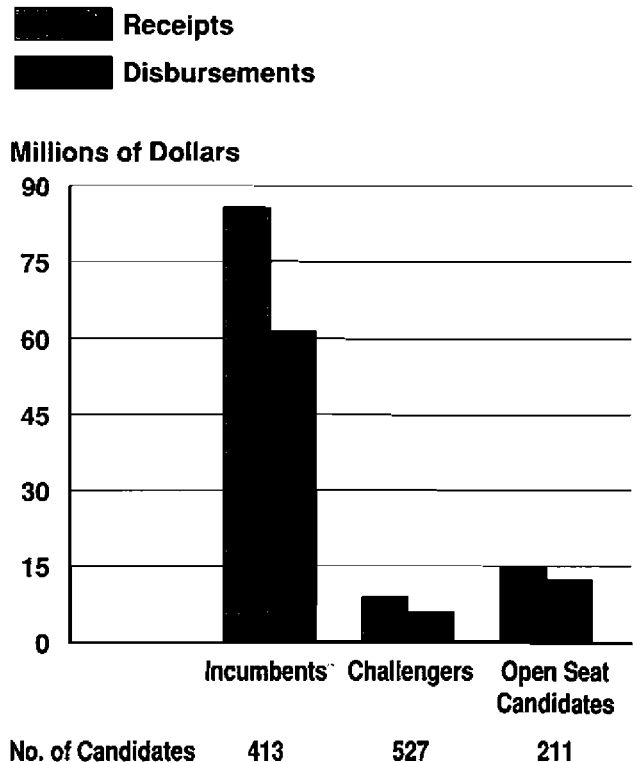
**15-MONTH STATISTICS SHOW MODERATE INCREASE IN HOUSE AND SENATE CAMPAIGN ACTIVITY**

Candidates for 1990 U.S. House and Senate seats raised more than \$192 million and spent \$127 million during the first 15 months of the election cycle (January 1, 1989, through March 31, 1990). When compared with the same period for the 1988 election cycle, 1990 campaign receipts increased by 7 percent (\$12.6 million) while spending rose 12 percent (\$13.9 million). An FEC press release issued May 8, 1990, provides summary data on the 15-month activity of 1990 House and Senate candidates and comparable data for 1986 and 1988 campaigns.






Based on those statistics, the charts below show the financial activity of 1990 House candidates and compare the sources of receipts for 1986, 1988 and 1990 House candidates.

**Chart I  
Receipts and Disbursements of 1990 House Candidates**

(January 1, 1989, through March 31, 1990)

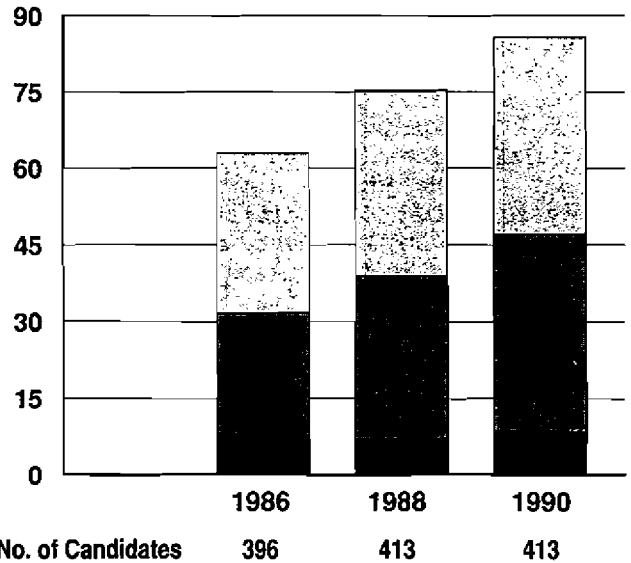


**House Candidates' Sources of Receipts: First 15 Months**

-  Contributions from Individuals
-  Contributions from PACs
-  Contributions and Loans from Candidate
-  Other Loans
-  Other Receipts <sup>1</sup>

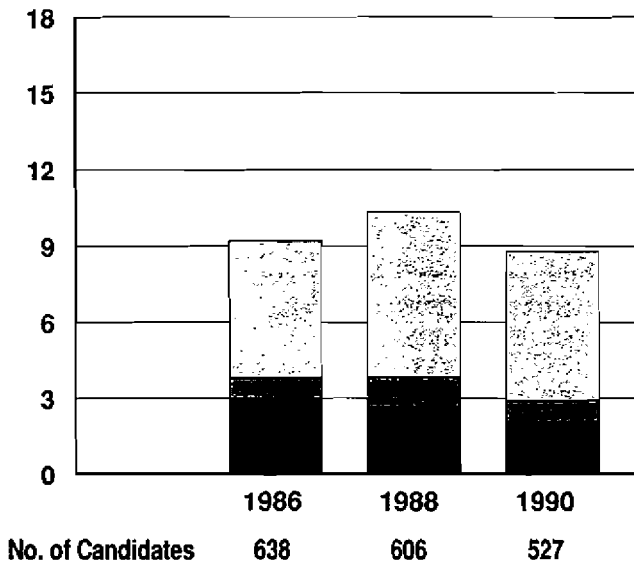
**Chart II Incumbents**

Millions of Dollars



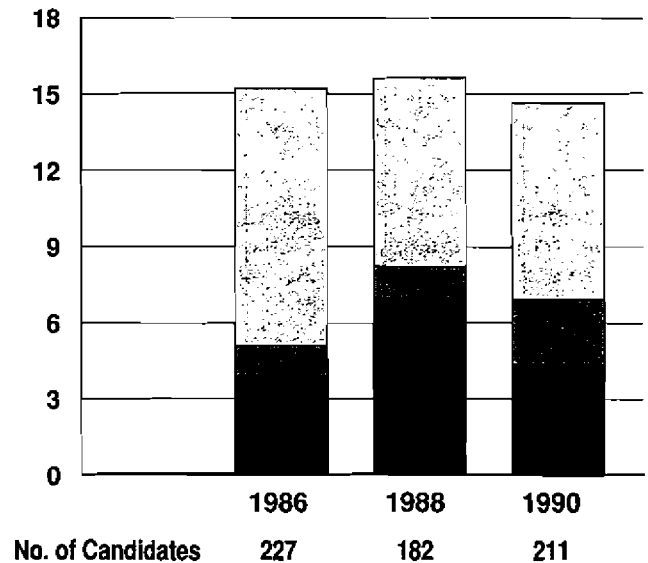
**Chart III Challengers**

Millions of Dollars <sup>2</sup>



**Chart IV Open Seat Candidates**

Millions of Dollars <sup>2</sup>



<sup>1</sup>Other receipts consist of contributions from party committees, transfers (such as joint fundraising proceeds but not funds transferred from committees authorized by the candidate for the current campaign), refunds and rebates, and interest income.

<sup>2</sup>Note change in scale between Chart II and Charts III and IV.

## COMPLIANCE

### NEW PROCEDURES FOR INVESTIGATIONS

On April 26, 1990, the Commission adopted a new practice permitting the Office of General Counsel (OGC) to conduct informal investigations of enforcement cases (MURs or Matters Under Review) without seeking advance approval from the Commission. OGC will initiate informal investigation and discovery only after the Commission has found "reason to believe." (A "reason to believe" finding means the Commission believes that an investigation should be conducted in order to determine whether the respondent has violated the law.) Under former procedures, OGC used more formal methods of obtaining information, such as subpoenas and orders, after first obtaining Commission approval. OGC proposed the new practice to shorten the time it takes to process an enforcement case and to foster cooperation from witnesses and respondents.

### MURs RELEASED TO THE PUBLIC

Listed below are MURs (FEC enforcement cases) recently released for public review. The list is based on the FEC press releases of May 23 and June 1, 1990. Files on closed MURs are available for review in the Public Records Office.

Unless otherwise noted, civil penalties result from conciliation agreements reached between the respondents and the Commission.

#### MUR 2766

**Respondents:** (a) Friends of Connie Mack (FL) and treasurer; (b) Auto Dealers and Drivers for Free Trade Political Action Committee (NY) and treasurer; (c) Representative Connie Mack (FL); (d) Hecht Re-election Committee (NV) and treasurer; (e) Senator Chic Hecht (NV)

**Complainant:** Robert F. Bauer, Democratic Senatorial Campaign Committee (DC)

**Subject:** Independent expenditures; excessive contributions; inadequate disclosure  
**Disposition:** (a) \$3,500 civil penalty (inadequate disclosure); (b) failed to find reason to believe; (c)-(e) no reason to believe

#### MURS 3016/2973

**Respondents:** State Democratic Executive Committee of Alabama and treasurer

**Complainant:** FEC initiated

**Subject:** Failure to report on time  
**Disposition:** \$3,800 civil penalty

#### MUR 1438

**Respondents:** (a) Harvey Furgatch (CA); (b) J. David Dominelli (CA)

**Complainant:** FEC initiated

**Subject:** Independent expenditures

**Disposition:** (a) U.S. District Court Judgment: \$25,000 civil penalty; (b) U.S. District Court Judgment: \$8,471 civil penalty

#### MUR 2415

**Respondents:** Reagan-Bush '84 (general election committee) (DC) and treasurer

**Complainant:** FEC initiated

**Subject:** Failure to retain and furnish records

**Disposition:** \$2,500 civil penalty

#### MURS 2465/1616/1557

**Respondents:** (a) Seminole Tribe of Florida; (b) James E. Billie (FL); (c) Marcellus Osceola (FL); (d) Howard E. Tommie (FL); (e) Stephen H. Whilden (FL)

**Complainant:** Paul Harvill (FL) (1616/1557); FEC initiated (2465)

**Subject:** Contributions made in the name of another; excessive contributions; failure to register and report as a political committee

**Disposition:** (a) and (b) \$32,000 civil penalty; (c) and (d) reason to believe but took no further action; (e) reason to believe (Commission could not locate respondent to serve him with General Counsel's probable cause brief)

## 800 LINE

### LAST-MINUTE CONTRIBUTIONS: 48-HOUR REPORTING

This article explains the special notices that candidate committees must file if they receive contributions of \$1,000 or more shortly before an election. These notices are referred to as 48-hour notices because they are due within 48 hours of the receipt of the contribution.

#### Who Reports

The authorized candidate committee that receives the last-minute contribution (not the contributor) must file the 48-hour notice.



**What Triggers 48-Hour Reporting**

A candidate committee must file a 48-hour notice if it receives a contribution of \$1,000 or more after the close of books for the pre-election report but more than 48 hours before the election. 2 U.S.C. §434(a)(6); 11 CFR 104.5(f).

Please note that the 48-hour notice requirement applies to all types of contributions, including:

- o In-kind contributions;
- o Loans (other than bank loans);
- o Guarantees and endorsements of bank loans; and
- o Contributions and loans from the candidate.

**What to Report**

The committee must disclose the following information in the notice:

- o The name of the candidate;
- o The office sought;
- o The identification of the contributor (i.e., full name, address and, for individuals, occupation and employer); and
- o The date and amount of the contribution. 2 U.S.C. §434(a)(6); 11 CFR 104.5(f).

Unlike regular reports, the 48-hour notice does not require the treasurer's signature. AO 1988-32.

**When to Report**

A 48-hour notice is due within 48 hours of the committee's receipt of the contribution. The committee must itemize the contribution a second time on its next regularly scheduled report. 2 U.S.C. §434(a)(6); 11 CFR 104.5(f).

**Filing on Time**

To ensure that a notice is filed within 48 hours, the committee may use a mailgram, a telegram or an express mail service. Certified, registered and first-class mail are acceptable methods of sending a notice, provided the notice is received at the appropriate filing office by the 48-hour deadline. In the case of a 48-hour notice, the postmark date is not significant for purposes of filing on time. AO 1988-32.

**Where to File**

Authorized committees of House and Senate candidates file with the Clerk of the House or the Secretary of the Senate, as appropriate. Under no circumstances should House and Senate committees file with the FEC. Authorized committees of Presidential candidates, however, do file with the FEC. 2 U.S.C. §432(g); 11 CFR 105.1-105.3.

House and Senate candidate committees must simultaneously file copies of 48-hour notices with the Secretary of State (or equivalent officer) in the state in which the candidate is seeking election. 2 U.S.C. §439(a)(2)(B); 11 CFR 108.3. Presidential candidate committees should consult 2 U.S.C. §439(a)(2)(A) for requirements on filing with state offices.

**LAST-MINUTE INDEPENDENT EXPENDITURES: 24-HOUR REPORTING**

This article explains the 24-hour reporting of independent expenditures aggregating \$1,000 or more that are made shortly before an election.

**Who Reports**

The person who makes the last-minute independent expenditure (i.e., a registered political committee, an unregistered group<sup>1</sup> or an individual) is responsible for filing the 24-hour report.

**Definition of Independent Expenditure**

An independent expenditure is an expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate and which 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 or her authorized committees or agents. 2 U.S.C. §431(17); 11 CFR 100.16 and 109.1(a).

**What Triggers 24-Hour Reporting**

The requirement to file a 24-hour report is triggered when a person makes independent expenditures aggregating \$1,000 or more between 2 and 20 days before the election. 2 U.S.C. §434(c); 11 CFR 104.4(b), 104.5(g) and 109.2(b).

**When to Report**

The report on last-minute independent expenditures is due within 24 hours after the expenditure is made.

In addition, the person making the expenditures must disclose them a second time in the report due at the end of the reporting period during which the expendi-

(continued)

<sup>1</sup>An unregistered group whose federal election activity exceeds \$1,000 in calendar year may be required to register and report as a federal political committee. 11 CFR 100.5(a).

tures were made. 2 U.S.C. §434(c); 11 CFR 104.4(a) and (b), 104.5(g), and 109.2(a)(2) and (b).

#### What to Report

The following information must be disclosed in a 24-hour report:

- o The committee's name, address and FEC identification number or, in the case of an individual or group, the name, address, occupation and employer of the individual responsible for reporting;
- o The name and address of the payee (i.e., the vendor or other person who receives payment for providing goods or services related to the independent expenditure);
- o The date, amount and purpose of the expenditure; and
- o The name of the candidate, the office sought, and whether the expenditure was made to support or oppose the candidate.

A 24-hour report must also include a notarized statement certifying that the expenditure was made without the cooperation or consent of any candidate or authorized committee.

The above information may be disclosed in a statement or on an FEC reporting form (Schedule E for political committees, Form 5 for individuals and groups). The PAC treasurer or the individual reporting the information must sign the statement or form. 2 U.S.C. §434(c); 11 CFR 104.4(b), 104.5(g) and 109.2(b).

#### Filing on Time

In order to meet the 24-hour deadline, the report must be delivered by hand or through an express mail service. (The need for a signature and notarized statement precludes the use of telegrams or mailgrams. 11 CFR 104.14(a).)

#### Where to File

Reports on last-minute independent expenditures that support or oppose House or Senate candidates are filed with the Clerk of the House or the Secretary of the Senate, as appropriate. A copy of the report must also be filed with the Secretary of State (or equivalent officer) of the state in which the candidate seeks election.

Reports on last-minute independent expenditures that support or oppose Presidential candidates are filed with the FEC and with the Secretary of State (or equivalent officer) of the state in which the expenditure was made. 11 CFR 104.4(c).

#### PUBLIC ACCESS TO LAST-MINUTE TRANSACTIONS

The Public Records Office makes available computer indexes on last-minute contributions and independent expenditures. A printout indexed by candidate name (the E Index) lists 48-hour notices on contributions filed by the candidate's committee. Another printout on independent expenditures is indexed by both the name of the person making the expenditure and the name of the candidate supported or opposed.

Shortly before the general election, the office produces a daily list of 48-hour reports.

To order copies of the independent expenditure index or indexes on individual candidates showing last-minute reports, call the Public Records Office: 800/424-9530 or 202/376-3140.



#### ELECTION CASE LAW 89

On May 31, 1990, the FEC's National Clearinghouse on Election Administration released Election Case Law 89, an overview of election law as applied by state and federal appellate courts. The volume provides a survey of the judicial treatment of election-related issues, among them reapportionment, ballot access and voter registration. (Not covered are cases related to campaign finance.<sup>1</sup>) Each chapter addresses a separate issue, opening with a summary of the current state of the law, followed by summaries of leading court cases. Each chapter also contains synopses of other selected cases and a bibliography of legal literature.

To order, call the Clearinghouse at 800/424-9530 or 202/376-5670. The publication has been distributed throughout the United States to libraries participating in the Federal Depository Library Program.

<sup>1</sup>Selected Court Case Abstracts summarizes cases related to the Federal Election Campaign Act. To order a copy, call 800/424-9530 or 202/376-3140.

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