

Record

July 2006

Federal Election Commission

Volume 32, Number 7

Table of Contents

	Regulations
1	Coordinated Communications
	Reports
1	July Reporting Reminder
3	Federal Register
5	Advisory Opinions
	Statistics
6	Congressional Campaigns Raise \$657.2M
7	Major Parties Raise \$555.2M
8	Nonfilers
9	Alternative Dispute Resolution
	Web Site
10	FEC Launches Treasurers Web Page with RSS
10	E-mail @ FEC.gov
11	Index

FEC Moves Toward E-Communications

See page 10 for details

Regulations

Coordinated Communications Final Rules

On June 8, 2006, the Commission published final rules and explanation and justification governing coordinated communications. (71 FR 33190) The rules, which take effect on July 10, comply with the Court of Appeals ruling in *Shays v. FEC* that the Commission had not adequately explained one aspect of the previous coordinated communications regulations. 11 CFR 109.21(c)(4).

Background

The *Shays* court found that the 120-day pre-election time frame used in the content prong of the three-prong coordinated communication test was not sufficiently justified, since there was “no support in the record for the specific content based standard the Commission... promulgated.” In response, the Commission issued a Notice of Proposed Rulemaking (NPRM) on December 8, 2005, and held public hearings on January 25 and 26, 2006. Neither the written comments nor the hearing testimony provided quantitative evidence concerning proposed time frames. As a result, the Commission licensed data from TNS Media Intelligence/CMAG regarding television advertising run

(continued on page 2)

Reports

July Reporting Reminder

Committees filing on a quarterly basis have a report due by July 15. The report covers financial activity from April 1—or the day after the closing date of the last report—through June 30. Note that the July 15 reporting deadline falls on a weekend. Filing deadlines are not extended when they fall on weekends.

In addition to filing quarterly reports, committees of House and Senate candidates active in the 2006 elections must file pre-election reports and may have to file 48-hour notices of last minute contributions of \$1,000 or more. Political action committees (PACs) and party committees filing on a quarterly basis may also have to file pre-election reports and 48- or 24-hour reports of independent expenditures, depending upon the timing of their activities.

National party committees, PACs following a monthly schedule and certain state, district and local party committees must file a monthly report by July 20.¹ The report covers activ-

(continued on page 4)

¹ State, district and local party committees that have \$5,000 or more of aggregate receipts and disbursements in a calendar year for federal election activity (FEA) or less than \$5,000 of aggregate receipts and disbursements of federal funds in a calendar year for FEA must file monthly. 11 CFR 300.36(c).

Regulations

(continued from page 1)

by Presidential, Senate and House candidates during the 2004 cycle in effort to address the appeals court's concerns. The Commission issued a Supplemental Notice of Proposed Rulemaking on March 15, 2006, to allow the public to comment on the licensed data.

For more information, see the January 2006 Record, page 2 and the March 2006 Record, page 3.

Final Rules

Revised Time Frame. The Commission has retained the existing content prong at 11 CFR 109.21(c)(4), but has modified the 120-day pre-election time frame. The Commission has established separate time frames for political parties, congressional and presidential candidates, based on com-

ments received in the rulemaking and the licensed data.

- For communications that refer to House and Senate candidates, the period begins 90 days before each candidate's election and runs through the date of that election. 109.21(c)(4)(i). This time frame applies separately to primary and general elections. In some states these periods will overlap, depending on the timing of the primary election.
- For communications that refer to Presidential candidates, the time frame for each state begins 120 days before the date of its presidential primary and runs through the general election. 109.21(c)(4)(ii).
- For communications coordinated with a political party committee that refer to political parties, do not reference a clearly identified federal candidate and are distributed in a jurisdiction where that party has a candidate on the ballot, the time frames are based on the election cycle:
 - o In a non-Presidential election cycle, the time frame begins 90 days before each election and ends on the date of that election (109.21(c)(4)(iii)(B));
 - o In a Presidential election cycle, the time frame for each state begins 120 days before the date of its primary and runs through the general election. 109.21(c)(4)(iii)(C).

o In a non-Presidential election cycle, the time frame begins 90 days before each election and ends on the date of that election (109.21(c)(4)(iii)(B));

o In a Presidential election cycle, the time frame for each state begins 120 days before the date of its primary and runs through the general election. 109.21(c)(4)(iii)(C).

- However, communications that refer only to a political party, but are coordinated with a candidate, are subject to the 90- or 120-day period applicable to that candidate, as long as they are distributed in that candidate's jurisdiction. 109.21(c)(4)(iii)(A).
- For communications that refer to political parties and reference a clearly identified federal candidate, the appropriate candidate time frame would apply when the communication is distributed in the candidate's jurisdiction:
 - o If the clearly identified federal

candidate is a House or Senate candidate, the 90-day time frame applies;

o If the candidate is a Presidential candidate, the 120-day time frame applies.

109.21(c)(4)(iv)(A)-(B).

- For communications coordinated with a political party committee that refer to both a political party and a clearly identified federal candidate and are distributed outside the candidate's jurisdiction, the election-cycle rules for communications referring to political parties described above apply. 109.21(c)(4)(iv)(C).

The Commission has also clarified that a public communication satisfies the content standards at 109.21 (c)(4)(i) or (ii) with respect to a candidate only if it is publicly distributed or otherwise publicly disseminated during the relevant time periods before an election in which that candidate or another candidate seeking election to the same office is on the ballot.

"Directed to Voters." The Commission has removed the phrase "directed to voters in the jurisdiction" from former 109.21(c)(4)(iii). The revised rule states that a public communication must be "publicly distributed or otherwise publicly disseminated in the clearly identified candidate's jurisdiction" or if the public communication refers to a political party, but not to a clearly identified federal candidate, in a jurisdiction in which one or more candidates of a political party appear on the ballot. The Commission has decided not to specify a minimum number of persons that must be able to receive a communication for the fourth content standard to apply.

Common Vendor and Former Employee Conduct Standard. BCRA requires that the Commission address "the use of a common vendor" and "persons who previously served as an employee of a candidate of a political party" in the context of

Federal Election Commission 999 E Street, NW Washington, DC 20463

800/424-9530
202/694-1100
202/501-3413 (FEC Faxline)
202/219-3336 (TDD for the
hearing impaired)

Michael E. Toner, Chairman
Robert D. Lenhard,
Vice Chairman

David M. Mason, Commissioner
Hans A. von Spakovsky,
Commissioner

Steven T. Walther, Commissioner
Ellen L. Weintraub, Commissioner

Robert J. Costa,
Acting Staff Director
Lawrence H. Norton,
General Counsel

Published by the Information
Division

Greg J. Scott, Assistant Staff
Director

Carlin E. Bunch, Editor

<http://www.fec.gov>

coordination. The Commission has decided to revise the temporal limit in the common vendor and former employee conduct standards to encompass 120 days rather than the entire current election cycle. The 120-day period starts on the last day of the individual's employment with a candidate or political party committee or on the last day that a commercial vendor performed any of the services listed in 109.21(d)(4)(ii) for a candidate or political party committee.

Endorsements and Solicitations. The Commission has created a new safe harbor in 109.21 for endorsements by federal candidates of other federal and nonfederal candidates. The Commission has also created a safe harbor for solicitations by federal candidates for other federal and nonfederal candidates, political committees and certain tax-exempt 501(c) organizations as permitted by 11 CFR 300.65. Such endorsements or solicitations are not coordinated communications unless the communication promotes, attacks, supports or opposes (PASOs) the endorsing or soliciting candidate or another candidate who seeks election to the same office as the endorsing or soliciting candidate. This safe harbor applies no matter when the endorsement or solicitation occurs.

This safe harbor was not extended to state ballot initiatives.

Publicly Available Information. The Commission has created a safe harbor for use of publicly available information in creating, producing or distributing a communication. Such use would not, in and of itself, satisfy any of the conduct standards in 109.21(d). This safe harbor would apply to four of the five conduct standards; only the "request or suggestion" conduct standard in 109.21(d)(1) is excluded from the safe harbor.

To qualify for this safe harbor, the person paying for the communication must demonstrate that the

information used in creating, producing or distributing the communication was obtained from a publicly available source. A communication that does not fall within this safe harbor will not automatically be presumed to satisfy the conduct prong of the coordinated communication test.

Establishment and Use of a Firewall. The Commission has created a safe harbor from the conduct standards when a commercial vendor, former employee or political committee establishes and uses a firewall to prevent the sharing of information about the candidate or political party's plans, projects, activities or needs. To qualify for the safe harbor, the firewall must be described in a written policy that is distributed to all relevant employees, consultants and clients affected by the policy. It must also be designed and implemented to prohibit the flow of information between:

- Employees or consultants providing services for the person paying for the communication; and
- Those currently or previously providing services to the candidate, the authorized committee, the candidate's opponent, the opponent's authorized committee or a political party committee.

This provision does not dictate specific procedures required to prevent the flow of information, since a firewall is more effective if established and implemented by each entity based on its specific organization, clients and personnel. However, a good example of an acceptable firewall is described in MUR 5506 (EMILY's List), First General Counsel's Report at 6-7. Additionally, the Commission does not require firewalls and will not draw a negative inference from the lack of such a screening policy.

Payment Prong Amendment. The new regulations clarify that the payment prong is satisfied if the communication "is paid, in whole or

in part, by a person other than that candidate, authorized committee, or political party committee."

Party Coordinated Communications (11 CFR 109.37). The Commission revised its regulations regarding party coordinated communication to ensure consistency with the revisions in the fourth content standard at 109.21(c)(4). These regulations apply to communications paid for by party committees and are similar to the standards for coordinated communications. The new regulations replace the old 120-day time frame with the new 90- and 120-day periods applicable to communications that refer to House and Senate candidates or Presidential candidates, respectively.

Revised 109.37 does not contain separate rules for communications that refer to political parties, because the content standard in 109.37(a) is not satisfied by communications that reference only political parties, unlike revised 109.21,

"Agent" Clarification. The Commission has added a sentence to 109.20(a) to explain that any reference in the coordinated communication rules to a candidate, a candidate's authorized committee or a political party committee, also refers to any their agents.

—Carlin E. Bunch

Federal Register

Federal Register notices are available from the FEC's Public Records Office, on the web site at www.fec.gov/law/law_rulemakings.shtml and from the FEC Faxline, 202/501-3413.

Notice 2006-10

Coordinated Communications (71 FR 33190, June 8, 2006)

Enforcement Query System Available on FEC Web Site

The FEC continues to update and expand its Enforcement Query System (EQS), a web-based search tool that allows users to find and examine public documents regarding closed Commission enforcement matters. Using current scanning, optical character recognition and text search technologies, the system permits intuitive and flexible searches of case documents and other materials.

Users of the system can search for specific words or phrases from the text of all public case documents. They can also identify single matters under review (MURs) or groups of cases by searching additional identifying information about cases prepared as part of the Case Management System. Included among these criteria are case names and numbers, complainants and respondents, timeframes, dispositions, legal issues and penalty amounts. The Enforcement Query System may be accessed on the Commission's web site at www.fec.gov.

Currently, the EQS contains complete public case files for all MURs closed since January 1, 1999. In addition to adding all cases closed subsequently, staff is working to add cases closed prior to 1999. Within the past year, Alternative Dispute Resolution (ADR) cases were added to the system. All cases closed since the ADR program's October 2000 inception can be accessed through the system.

Reports

(continued from page 1)

ity for the month of June. Also, these committees may have to file 48- or 24-hour reports of independent expenditures, depending upon the timing of their activities.

Electronic Filing Software

The Commission recently updated its electronic filing format to Version 5.3.1.0. Before filing their next report, FECFile users must download version 5.3 of the software from the FEC web site at www.fec.gov/electfil/FECFileIntroPage.shtml.

Committees using commercial software should contact their vendors for more information about the latest software release. Only reports filed in the new format version will be accepted.

Filing Electronically

Under the Commission's mandatory electronic filing regulations, individuals and organizations² that receive contributions or make expenditures in excess of \$50,000 in a calendar year—or have reason to expect to do so—must file all reports and statements with the FEC electronically. Electronic filers who instead file on paper or submit an electronic report that does not pass the Commission's validation program will be considered nonfilers and may be subject to enforcement actions, including administrative fines.

Senate committees and other committees that file with the Secretary of the Senate are not subject to the mandatory electronic filing rules, but may file an unofficial electronic

²The regulation covers individuals and organizations required to file reports with the Commission, including any person making an independent expenditure. Disbursements made by individuals or unregistered entities for electioneering communications do not count toward the \$50,000 threshold for mandatory electronic filing. See 11 CFR 104.18(a).

copy of their reports with the Commission in order to speed disclosure.

Timely Filing for Paper Filers

Reports sent by registered or certified mail, by Express or Priority Mail with delivery confirmation or by overnight mail with an online tracking system must be postmarked, or deposited with the mailing service, by the filing deadline. A committee sending its reports by certified mail should keep its mailing receipt with the postmark as proof of filing because the U.S. Postal Service does not keep *complete* records of items sent by certified mail. A committee sending its reports by registered, Express or Priority mail, or by an overnight delivery service, should also keep its proof of mailing or other means of transmittal of its reports.

Reports sent by other means—including first class mail and courier—must be *received* by the FEC before it closes its doors on the filing deadline. 2 U.S.C. §434(a)(5) and 11 CFR 104.5(e).

For those filers who are not required to file their reports electronically, paper forms are available on the FEC's web site, www.fec.gov/info/forms.shtml, and from FEC Faxline, the agency's automated fax system, 202/501-3413.

Additional Information

For more information on 2006 reporting dates:

- See the reporting tables in the January 2006 *Record*;
- Call and request the reporting tables from the FEC at 800/424-9530 or 202/694-1100;
- Fax the reporting tables to yourself using the FEC's Faxline at 202/501-3413, document 586; or
- Visit the FEC's web site at www.fec.gov/info/report_dates.shtml to view the reporting tables online.

—Elizabeth Kurland

Advisory Opinions

Advisory Opinion 2006-15: Domestic Subsidiaries of Foreign Corporation May Donate to State and Local Elections

Wholly-owned domestic subsidiaries of a foreign corporation may donate funds in connection with state and local elections, subject to state law, as long as no foreign national participates in decision-making and the funds do not come from a foreign national.

Background

Foreign nationals cannot directly or indirectly make a contribution or donation of money in connection with a federal, state or local election, nor can they direct, dictate, control or directly or indirectly participate in decisions concerning the making of any such contributions or donations. 2 U.S.C. 441e and 11 CFR 110.20.

The Act and Commission regulations define “foreign national” to include “foreign principals” and individuals who are neither U.S. citizens nor lawfully admitted permanent residents (i.e., green card holders). 2 U.S.C. 441e(b) and 11 CFR 110.20(a)(3). A foreign principal includes corporations organized under the laws of or having its principal place of business in a foreign country. 22 U.S.C. 611(b)(3).

TransCanada Corporation is a Canadian company that owns two U.S. corporations: Gas Transmission Northwest Corporation (GTN) and TransCanada Hydro Northeast Inc. (TC Hydro). Each wholly-owned subsidiary has a three member Board of Directors, and each Board has one member who is neither a U.S. citizen nor a green card holder. GTN and TC Hydro would like to donate and disburse corporate treasury funds in connection with state and local elections.

Analysis

Under the Act, TransCanada Corporation is a foreign national. However, because GTN and TC Hydro are each incorporated in the United States and each has its principal place of business in the United States, they are not foreign nationals for the purposes of 2 U.S.C. 441e. Because one director on each of the subsidiaries’ boards is not a U.S. citizen or a permanent resident, those two individuals are considered foreign nationals.

Because donations or disbursements may not be derived from the foreign national’s funds GTN and TC Hydro must use a reasonable accounting method to show that the subsidiary has sufficient funds in its accounts, other than funds given or loaned by its foreign national parent corporation. See AO 1992-16.

GTN and TC Hydro have proposed arrangements similar to those approved by the Commission in AO 2000-17 to ensure that no foreign national has any decision-making authority concerning the making of donations or disbursements. The subsidiaries’ Boards of Directors would establish a political donation budget on a “not to exceed” basis. The directors would enforce this budget cap and delegate political donation decision-making to a subset of board members composed entirely of U.S. citizens or permanent residents.

This approach ensures that only funds raised by the U.S. corporations are used and that only citizens or permanent residents have decision-making power for the state and local political donations and disbursements in question. As such, the plan is permissible under the Act and FEC regulations.

Length: 6 pages

Date: May 19, 2006

—Carlin E. Bunch

Advisory Opinion 2006-19: Local Party Communications Not FEA

A local party committee’s mass mailing and pre-recorded, electronically dialed telephone calls to the party’s registered voters do not constitute get-out-the-vote activity (GOTV) or federal election activity (FEA), because they promote only nonfederal candidates, will not be made in close proximity to the date of the election, are insufficiently targeted and are not individualized. As a result, the party may pay for the communications entirely with nonfederal funds.

Background

The Los Angeles County Democratic Party Central Committee (LACDP) proposes to make pre-recorded, electronically dialed telephone calls and send direct mail to voters in the City of Long Beach urging them to vote for local candidates. These communications indicate the date of the election. The election for local candidates occurs on same day as a federal primary election in the state, but the party’s communications will not mention any federal candidates.

The Act and Commission regulations identify certain activities conducted by state, district and local parties as FEA, regardless of whether the party is registered with the FEC. These activities must be paid for with either federal funds or a combination of federal and Levin funds. 2 U.S.C. 431(20) and 441i(b)(1).¹ One type of FEA is voter identification, GOTV and generic campaign activity conducted in

(continued on page 6)

¹ Federal funds are subject to the amount limitations, source prohibitions and reporting requirements of the Act. Levin funds are raised by state, district and local party committees pursuant to the restrictions in 11 CFR 300.31 and disbursed subject to the restrictions in 11 CFR 300.32.

Advisory Opinions

(continued from page 5)

connection with an election in which a candidate for federal office appears on the ballot. GOTV activity is defined as contacting registered voters by telephone, in person or by other individualized means to assist them in engaging in the act of voting. 11 CFR 100.24(a)(3). GOTV includes, but is not limited to:

- Providing individual voters information such as the date of the election, the times when polling places are open and the location of particular polling places; and
- Offering to transport or actually transporting voters to the polls.

Commission Calendar Always Up-to-Date

Between issues of the *Record*, you can stay up-to-date on the latest FEC activity by visiting the Commission Calendar on our web site at http://www.fec.gov/Fec_calendar/maincal.cfm. The Calendar lists Commission meetings, reporting deadlines, conferences and outreach events, advisory opinion and rulemaking comment periods and other useful information. Each calendar entry links directly to the relevant documents, so you can quickly access detailed information on the subjects that interest you.

While you're visiting www.fec.gov, be sure to explore the rest of our site to review the latest campaign finance reports and data, research enforcement actions and litigation, read press releases and get help complying with the law. Visit today and add our site to your favorites.

Analysis

LACPD's proposed communications promote the election of only nonfederal candidates. Additionally, the party would distribute the communications four or more days prior to the election, so they are less effective in motivating recipients to go to the polls. This is more likely to be "mere encouragement" to vote and regulating them is unnecessary and could adversely affect grassroots political activities.

Moreover, LACDP would not target the communications at any specific subset of Democratic voters. The direct mail piece is merely a form letter and the pre-recorded telephone calls are the functional equivalent. Additionally, while the communications do mention the election date, they do not include additional information such as the hours and location of the individual voter's polling place. Given these facts, the communications do not provide individualized assistance to voters, and thus fall outside the definitions of GOTV and FEA. As a result, the communications may be paid for entirely with nonfederal funds.

Concurring Opinion

Commissioner Hans A. von Spakovsky issued a concurring opinion on June 5, 2006.

Date: June 5, 2004

Length: 6 pages

—*Carlin E. Bunch*

Advisory Opinion Requests

AOR 2006-18

Using campaign's web site and e-mail list to promote sales of candidate's book (Congresswoman Kay Granger and the Kay Granger Campaign Fund, May 3, 2006)

AOR 2006-20

Nascent political party's ability to incorporate for liability purposes and to raise and spend funds without such funds being considered contributions or expenditures triggering registration as a political committee (Unity 08, May 30, 2006)

Statistics

Congressional Campaigns Raise \$657.2M

From January 1, 2005 to March 31, 2006, congressional campaigns have raised \$657.2 million, 13 percent more than the last comparable cycle. Spending remained nearly unchanged from last cycle—\$330.4 million. Cash-on-hand was up 24 percent to of \$522.3 million.

Senate campaigns reported \$265.1 million in receipts, \$110.9 million in disbursements and cash balances of \$202.5 million, which is a five percent increase in fundraising, a 21 percent decline in spending and a 22 percent increase in cash-on-hand. It is difficult to compare Senate races across different election cycles because of differences in the size and level of competition in states, variations in retirement of certain Senators and other unique factors.

House campaigns raised \$392.1 million, spent \$219.5 million and reported cash balances of \$319.9 million, which is an increase of 19 percent in fundraising and 15 percent increase in spending. Receipts by Democratic House candidates increased 25 percent with large increases for challengers and open seat candidates. Republican House candidates' receipts were six percent higher than in the last cycle with the increase confined to incumbent candidates.

Contributions from individuals, totaling \$414.9 million, continue to be the largest source of receipts for Congressional candidates

representing 63 percent of all fundraising. PAC contributions totaled \$172.1 million or 26 percent of Congressional receipts, while candidates themselves contributed or loaned a total of \$49.7 million—eight percent of all receipts.

Further Information

For more information on Congressional statistics, please see the May 11, 2006 press release entitled “Congressional Fundraising Continues to Grow” on the FEC web site, www.fec.gov. The release includes extensive statistics, such as:

- Summary data for Senate and House candidates by political party, as well as by candidate status: incumbent, challenger or open seat;
- Rankings of Senate and House candidates for the following categories: receipts, individual contributions, PAC and other committee contributions, disbursements, cash-on-hand and debts owed;
- Six-year financial summaries of Senate candidates for 2006; and
- Current cycle financial summaries for each House campaign.

—Carlin E. Bunch

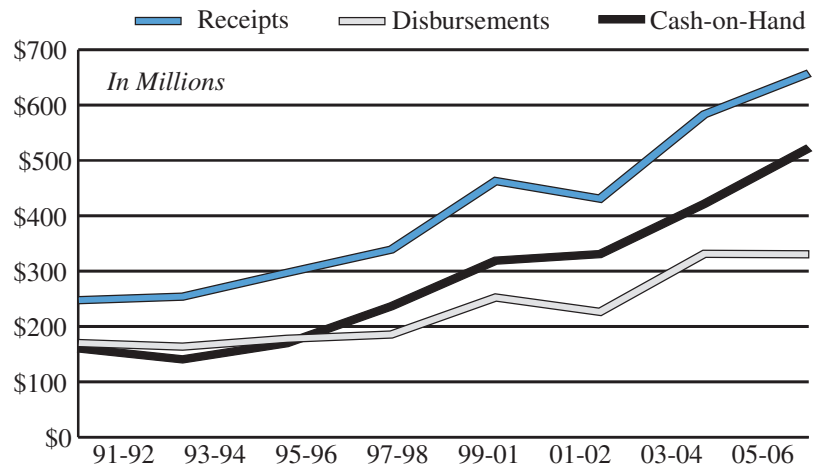
Major Parties Raise \$555.2M

The Democratic and Republican Parties have reported raising \$555.2 million in hard money at the national, state and local levels during the first 15 months of the 2006 election cycle—five percent more than they raised during a comparable period in 2004. Fundraising from federal sources was only one percent lower than total fundraising during the same period in 2002, even though soft money was permitted in that cycle.

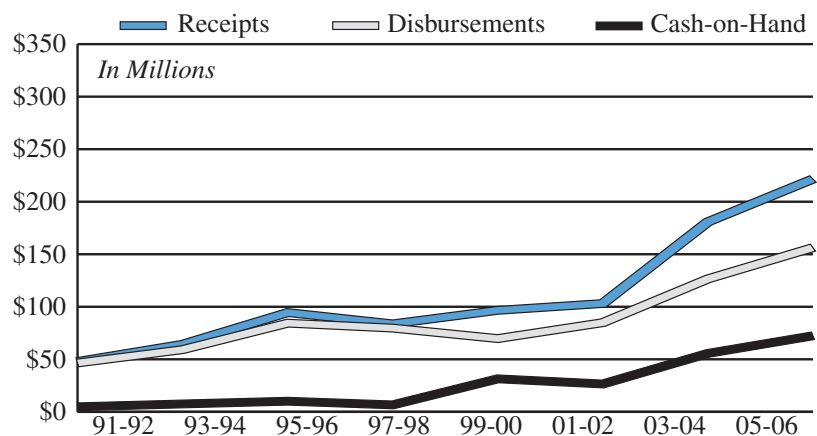
The 2006 election cycle is the second in which national parties

(continued on page 8)

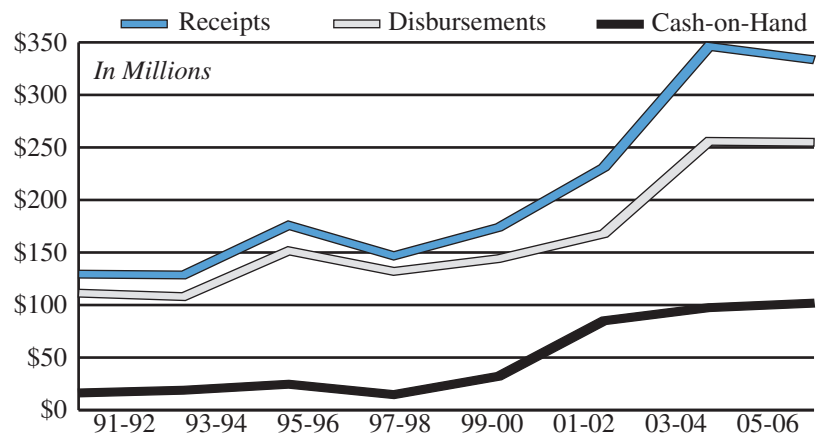
Congressional Financial Activity, 1989-2006



Democratic National, Senatorial, Congressional & State/Local Party Committee Totals



Republican National, Senatorial, Congressional & State/Local Party Committee Totals



Statistics

(continued from page 7)

have been prohibited from receiving soft money—funds from sources or in amounts not permitted in federal elections. The accompanying table shows hard money fundraising by national party committees from January 1, 2005 through March 31, 2006 compared with both hard and soft money receipts from previous cycles.

During this period, Democratic Party committees reported raising \$221.7 million—an increase of 23 percent over the same period in 2004. Republican Party committees raised \$333.4 million—four percent less than

2004. Federal fundraising by parties has often been stable or even declined slightly in cycles without a Presidential campaign. While Democrats closed the gap in fundraising with their Republican counterparts, Republican Party committees still raised nearly \$112 million more than Democrats. Contributions from individuals continue to be the largest source of funds for all party committees, representing more than 78 percent of all Democratic party funds and 89 percent of Republican fundraising. One of the changes included in the Bipartisan Campaign Reform Act of 2002 was an increase in contribution limits for individuals giving to national party committees. The limit changed from \$20,000 per year prior to passage of BCRA to \$25,000 in 2003-2004 and \$26,700 in 2005-2006, due to indexing for inflation.

Contributions from PACs, whose limits were not changed by BCRA, accounted for ten percent of overall Democratic receipts and six percent for Republicans.

Transfers to party committees from the campaigns of individual members of Congress have played an increasing role in party finance during recent cycles. Nearly 20 percent of funds raised by the Democratic Congressional Campaign Committee came directly from Democratic House members' campaigns. Republican members accounted for six percent of National Republican Congressional Committee funds.

Further Information

For more information on party committee statistics, please see the May 17, 2006 Press Release entitled "Party Financial Activity Summarized" on the FEC web site, www.fec.gov. This release includes extensive statistics such as:

- Democratic Party Committee Financial Activity;
- Republican Party Committee Financial Activity;
- National Party Contributions from Individuals by Size;
- Senatorial Campaign Committee Contributions from Individuals by Size;
- Congressional Campaign Committee Contributions from Individuals by Size;
- Campaign Committee Transfers to Party Congressional Committees;
- Joint-Fundraising and Campaign Committee Transfers to Party Senate Committees; and
- National Party Transfers to States.

—Carlin E. Bunch

FEC Web Site Offers Podcasts

In an effort to provide more information to the regulated community and the public, the Commission is making its open meetings and public hearings available as audio recordings through the FEC web site, as well as by podcasts. The audio files, and directions on how to subscribe to the podcasts are available under *Audio Recordings* through the *Commission Meetings* tab at <http://www.fec.gov>.

The audio files are divided into tracks corresponding to each portion of the agenda for ease of use. To listen to the open meeting without subscribing to the podcasts, click the icon next to each agenda item. Although the service is free, anyone interested in listening to podcasts must download the appropriate software listed on the web site. Podcast subscribers will automatically receive the files as soon as they become available—typically a day or two after the meeting.

Nonfilers

Committees Fail to File Pre-Election Reports

Several committees failed to file 12-Day Pre-Primary reports for primary elections in their states:

- Shawn O'Donnell for Congress—May 13 primary election in Virginia
- Matt Wertz for Congress—May 16 primary election in Pennsylvania
- Pennacchio for Pennsylvania—May 16 primary election in Pennsylvania
- Ned Lamont for Senate—May 20 Connecticut Convention
- Roberto Rodriguez for Congress—June 6 primary election in California
- Orren for Congress—June 6 primary election in California
- Todd Chretien for Senate 2006—June 6 primary election in California
- Mountjoy for U.S. Senate—June 6 primary election in California

- Bill Bowlin for Senate Committee—June 6 primary election in Mississippi
- Allen W. McColloch, MD for US Senate—June 6 primary election in New Mexico

Prior to the reporting deadline, the Commission notified the committees of their filing obligations. Committees that failed to file the required reports were subsequently notified that their reports had not been received and that their names would be published if they did not respond within four business days.

The Federal Election Campaign Act requires the Commission to publish the names of principal campaign committees if they fail to file 12 day pre-election reports or the quarterly report due before the candidate's election. 2 U.S.C. 437g(b). The agency may also pursue enforcement actions against nonfilers and late filers on a case-by-case basis.

Alternative Dispute Resolution

ADR Program Update

The Commission recently resolved six additional cases under the Alternative Dispute Resolution (ADR) program. The respondents, the alleged violations of the Federal Election Campaign Act (the Act) and final disposition of the cases are listed below.

1. The Commission dismissed the matter of Dollars for Democrats, Ann Fishman, treasurer, regarding failure to report receipts. The respondents acknowledged that the receipts were not included in their original 2004 12-Day Pre-General Election report. Once they discovered the error, they amended the report to disclose the additional receipts. They explained that they did not make contributions or expenditures on behalf of federal candidates

during the reporting period. Since the committee made no contributions or expenditures during the reporting period, they were not required to file the 12-Day Pre-General Report. Unlike quarterly or monthly reports, which must be filed regardless of activity, pre-election reports are required only if the committee makes contributions or expenditures in connection with the election during the applicable period. In this case, since the committee chose to file the report, it would have been preferable if they had included the receipts. (ADR 278*)

2. The Commission reached an agreement with the Idaho Republican Party, Andrew Fales, treasurer, regarding failure to provide accurate contributor information and failure to employ best efforts to obtain such information. The respondents contended that committee staff turnover, irregular employment of professional staff to assist the committee and the lack of appropriate records led to the violations. Since the violations were brought to the committee's attention, the committee has hired professional staff and implemented new procedures to ensure that records are maintained and that follow-up letters are sent when information is missing. The respondents agreed to establish new internal operating procedures, contact the contributors to obtain the required employment and occupation information that was missing from the 2002 election cycle, file amended reports disclosing such information and pay a \$10,000 civil penalty. (ADR 284*)

3. The Commission reached an agreement with MOVEON.ORG Political Action, Wes Boyd, treasurer, regarding failure to forward earmarked contributions within 10 days after initial receipt. The respondents acknowledged the need to establish a back-up procedure to handle disbursements of earmarked contributions in the event that committee

personnel are unavailable to do so in a timely manner. Respondents have contracted a professional accounting firm and agreed to maintain the new back-up procedures, attend an FEC seminar and to pay a \$2,000 civil penalty. (ADR 290*)

4. The Commission has reached an agreement with Pennsylvania Medical Society Political Action Committee Federal, Larry Light, treasurer, regarding inaccurate reporting of receipts and disbursements. The respondents acknowledge inadvertent errors in disclosing the Committee's financial activity on the 2003 Year-end report. They state that the errors occurred during the transfer of data to FECFile. The committee filed an amended report to disclose additional receipts and disbursements. They agreed to establish new procedures to provide for regular pre-filing review of all FEC reports, maintain a guidebook on compliance with the requirements of the Act, send two members to attend an FEC seminar and pay a \$9,000 civil penalty. (ADR 294*)

5. The Commission has reached an agreement with Progressive Majority, Thomas C. Matzzie, treasurer, regarding failure to accurately disclose receipts and disbursements. The respondents explained that the omissions from the committee's 2004 30-Day Post General Report were inadvertent. They have amended their reports and have agreed to proceed with their request to terminate the committee and pay a \$4,500 civil penalty. (ADR 288*)

6. The Commission has reached an agreement with W.R. Timken, Jr. regarding his excessive contributions during 2001. Mr. Timken discovered he had exceeded the \$25,000 annual aggregate limit on individual contributions allowable at the time. He sought and obtained refunds of excessive contributions and agreed to disgorge and forward \$6,999 to the U.S. Treasury. (ADR 292)

—Carlin E. Bunch

**This case was internally generated.*

Web Site

FEC Launches Treasurers' Web Page with RSS

The Commission invites you to visit its new "Resources for Committee Treasurers" web page and to subscribe to its new "Tips for Treasurers" RSS syndication service. You'll find the new page at www.fec.gov/info/TipsforTreasurers.shtml.

Designed to help treasurers get the information they need to comply with the federal campaign finance laws, the new web page provides links to an array of helpful publications, online presentations and other resources. The web page also offers timely tips and reminders to help treasurers meet their obligations under the law. As an added feature, visitors can subscribe to receive automatic notification of updates to this page via RSS syndication service. This service uses a technology called XML to deliver the very latest information directly to your desktop or web browser. Please visit our RSS information page at www.fec.gov/rss/RSSFeeds.shtml to learn more.

If you have any questions, would like to provide feedback or have compliance tips of your own to offer, please send us an e-mail at info@fec.gov.

E-mail @ FEC.gov

The FEC is testing an e-mail distribution system that will enable the agency to replace paper correspondence with electronic communications. E-mail communications will not only be more timely and convenient for recipients, they also will save tax dollars.

All political committees should to provide a current e-mail address on their Statement of Organization (FEC Form 1), and committees that file electronically must provide one. 11 CFR 102.2(a)(1)(vii). The contact information on the Statement of Organization is used for most official correspondence

from the Commission. As the agency begins communicating with committees electronically, keeping the committee's e-mail address current is even more important. To update your committee's e-mail address or other contact information, the treasurer must file an amended Form 1. Electronic filers must submit the amendment electronically. Paper filers may download the form from the FEC web site, www.fec.gov/info/forms.shtml.

Watch for more information about this exciting new program in the months ahead, and be sure to keep your committee's Statement of Organization up-to-date.

Do we have your correct address?

Please make sure your current e-mail address appears on FEC Form 1.

All political committees should provide a current email address on their Statement of Organization (FEC Form 1), and committees that file electronically must provide one. It's important to keep all contact information on the Statement of Organization up-to-date, because the FEC uses it to send committees important compliance information. As the agency begins to communicate with committees electronically, keeping the committee's e-mail address current will be even more important. E-mail communication will allow the agency to provide more timely and tailored information to committees, in addition to saving tax dollars. Watch for more information about this exciting new program and be sure to keep your committee's email address current on your Form 1. The form is available from the Commission or on its web site at www.fec.gov/info/forms.shtml

A message from the FEC Information Division
www.fec.gov / 800-424-9530 / info@fec.gov

The Commission will distribute this flier to encourage committees to update their e-mail addresses in preparation for the FEC's new e-mail distribution system.

Index

The first number in each citation refers to the numeric month of the 2006 Record issue in which the article appeared. The second number, following the colon, indicates the page number in that issue. For example, "1:4" means that the article is in the January issue on page four.

Advisory Opinions

- 2005-16: Press Exemption Applied to Web Sites, 1:11
- 2005-18: Candidate May Host Radio Program, 1:12
- 2005-19: Radio Program Qualifies for Press Exemption, 2:3
- 2005-20: Payroll Deduction for LLP PAC, 3:8
- 2006-1: Committee May Accept Discount in Normal Course of Business, 4:4
- 2006-2: LLC Does Not Qualify as Membership Organization, 4:4
- 2006-3: Common Username and Password Acceptable for SSF Web Site, 5:6
- 2006-4: Candidate Contributions to Ballot Initiative Committee, 5:6
- 2006-6: Millionaires' Amendment Applied to California Special Election, 4:5
- 2006-7: Committee May Promote Candidate's Book on Web Site, 6:4
- 2006-8: Corporation Collecting and Forwarding Contributions from Individuals to Political Committees, 6:4
- 2006-9, 6:5
- 2006-11: Allocation of Payment for Mass Mailings, 6:5
- 2006-12: Labor Organization Affiliation During Merger, 6:6
- 2006-13: Candidate's Compensation According to Firm's Plan is not a Contribution, 6:7
- 2006-15: Domestic Subsidiaries of Foreign Corporation May Donate to State and Local Elections, 7:5
- 2006-16: Misappropriated Funds, 6:8

2006-19: Local Party Communications Not FEA, 7:5

Compliance

- Administrative Fine Program Extended, 1:15
- Administrative Fine Update, 5:9
- Alternative Dispute Resolution Update, 1:15, 2:7, 3:9, 5:10, 7:9
- MURs 5305 & 5398: Corporate and Excessive Contributions in the Name of Another, 5:8
- MUR 5388: Accepting Excessive Contributions, 6:2
- MUR 5390: Chartered Corporation Pays Record \$3.8M Civil Penalty, 6:1
- MUR 5453: Excessive and Prohibited Contributions, 4:8
- MUR 5628: Contributions in the Name of Another, 1:14
- MUR 5635: No-Risk Contract Results in Corporate Contributions, 2:6
- Nonfilers, 7:8
- Sharpton Repayment Agreement, 2:6

Correction

- 2006 Coordinated Party Expenditures, 4:11
- Reports Due in 2006, 2:10

Court Cases

- ____ v. FEC
- CCL, 5:7, 6:3
- CREW, 1:13
- EMILY's List, 2:5
- LaRouche, 4:7
- Liffrig v. FEC, 2:5
- Kean for Congress, 3:7
- Shays II, 6:1
- Wisconsin Right to Life, 3:1
- FEC v. ____
- Kalogianis, 3:8
- Reform Party, 1:13

Information

- IRS Report on Political Activity Compliance by Exempt Organizations, 4:9

Party Activities

- 2006 Coordinated Party Expenditure Limits, 3:5

Regulations

- Coordinated Communications NPRM, 1:2; final rules, 7:1
- Electioneering Communications, final rules, 2:1
- FEA final rules, 3:2
- FEA interim final rule, 5:3
- Internet final rules, 5:1
- Petition for Rulemaking, EC Exemption, 4:2
- Public Hearing on Coordinated Communications, 3:3
- Revised E&J for "Agent," 3:1
- Solicit and Direct, final rules, 4:1
- State, District and Local Party Committee Wages, final rules, 1:3

Reports

- Alabama Primary Runoff Delayed, 6:9
- April Quarterly Reporting Reminder, 4:1
- California Special Election Reporting: 50th District, 2:4
- Connecticut Convention Reporting Dates, 6:9
- Due in 2006, 1:4, 2:10
- FECFile Update, 3:11
- FEC Form Instructions Revised, 6:9
- July Reporting Reminder, 7:1

Statistics

- Congressional Campaigns Raise \$657.2M, 7:6
- Major Parties Raise \$555.2M, 7:7
- PACs Raise \$477.4M in 2005, 4:7
- Party Committees Raise Over \$430 Million, 5:10
- Senate Fundraising Figures, 2:8

Web Site

- Administrative Fines Calculator, 2:10
- Commission Calendar Always Up-To-Date, 1:18
- E&J Compilation Now Available on FEC Web Site, 4:10
- E-mail @ FEC.gov, 7:10
- FEC Web Site Presents Podcasts, 2:9
- FEC Launches Treasurers' Web Page with RSS, 7:10
- New Search Engine for FEC Web Site, 4:10

FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

Official Business
Penalty for Private Use, \$300

PRESORTED STANDARD
U.S. POSTAGE
PAID
FEDERAL ELECTION COMMISSION

