



## April Reporting Reminder

The following reports are due in April:

- All principal campaign committees of House and Senate candidates must file a quarterly report by April 15, 2012. The report covers financial activity from January 1 (or the day after the closing date of the last report) through March 31;
- Principal campaign committees of Presidential candidates must file a report by April 15, if they are quarterly filers (the report covers financial activity from January 1 through March 31), or by April 20, if they are monthly filers (the report covers activity for the month of March); and
- National party committees, political action committees (PACs) following a monthly filing schedule and state, district and local party committees that engage in reportable "federal election activity" (see "State, District and Local Party Committees, on page 3) must file a monthly report by April 20. This report covers activity for the month of March. 11 CFR 104.5.

### Notification of Filing Deadlines

In addition to publishing this article, the Commission notifies committees of filing deadlines on its website, via its automated Faxline and through reporting reminders called prior notices. Prior notices are distributed exclusively by electronic mail. For that reason, it is important that every committee update its Statement of Organization (FEC Form 1) to disclose a current e-mail address. To amend Form 1, electronic filers must submit Form 1 filled out in its entirety. Paper filers should include only the committee's name, address, FEC identification number and the updated or changed portions of the form.

### Treasurer's Responsibilities

The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Federal Election Campaign Act (the Act) and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail (see below), or electronically, must be received by the Commission's (or the Secretary of the Senate's) close of business on the last business day before the deadline.

### Filing Electronically

Under the Commission's mandatory electronic filing regulations, individuals and organizations that receive contributions or make expenditures, including independent 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. [fn1] Reports filed

electronically must be received and validated by the Commission by 11:59 p.m. Eastern Standard/Daylight Time on the applicable filing deadline. Electronic filers who instead file on paper or submit an electronic report that does not pass the Commission's validation program by the filing deadline will be considered nonfilers and may be subject to enforcement actions, including administrative fines. 11 CFR 104.18(e).

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

The Commission's electronic filing software, FECFile, is free and can be downloaded from the FEC's web site. FECFile Version 8.0.1.7 is available for download from the FEC web site at <http://www.fec.gov/electfil/updatelist.html>. All reports filed after March 2, 2012, must be filed in Format Version 8.0.1.7. Reports filed in previous formats will not be accepted. Filers may also use commercial or privately developed software as long as the software meets the Commission's format specifications, which are available on the Commission's web site. Committees using commercial software should contact their vendors for more information about the Commission's latest software release.

### **Timely Filing for Paper Filers**

*Registered and Certified Mail.* Reports sent by registered or certified mail must be post-marked on or before the mailing deadline to be considered timely filed. A committee sending its reports by certified or registered mail should keep its mailing receipt with the U.S. Postal Service (USPS) postmark as proof of filing because the USPS does not keep complete records of items sent by certified mail. See 2 U.S.C. §434(a)(5) and 11 CFR 100.19 and 104.5(e).

*Overnight Mail.* Reports filed via overnight mail [fn2] will be considered timely filed if the report is received by the delivery service on or before the mailing deadline. A committee sending its reports by Express or Priority Mail, or by an overnight delivery service, should keep its proof of mailing or other means of transmittal of its reports. See 2 U.S.C. §434(a)(5) and 11 CFR 104.5(e). See also, generally, 100.19.

*Other Means of Filing.* Reports sent by other means—including first class mail and courier—must be received by the FEC (or the Secretary of the Senate) before close of business on the filing deadline. See 11 CFR 100.19 and 104.5(e).

Paper forms are available for downloading at the FEC's website (<http://www.fec.gov/info/forms.shtml>) and from FEC Faxline, the agency's automated fax system (202/501-3413). The 2012 Reporting Schedule is also available on the FEC's website ([http://www.fec.gov/info/report\\_dates\\_2012.shtml](http://www.fec.gov/info/report_dates_2012.shtml)), and from Faxline. For more information on reporting, call the FEC at 800/424-9530 or 202/694-1100.

### **State, District and Local Party Committees**

State, district and local party committees that engage in certain levels of "federal election activity" must file on a monthly schedule. See 11 CFR 300.36(b) and (c)(1). Committees that do not engage in reportable "federal election activity" may file on a quarterly basis in 2012. See 11 CFR 104.5(c)(1)(i).

### **National Party Committees**

National committees of political parties must file on a monthly schedule in all years. 2 U.S.C. §434(a)(4) (B) and 11 CFR 104.5(c)(4).

### **Political Action Committees**

PACs (separate segregated funds and nonconnected committees) that filed on a semi-annual basis in 2011 file on a quarterly basis in 2012. Monthly filers continue on the monthly schedule. PACs may change their filing schedule, but must first notify the Commission in writing. Electronic filers must file this request electronically. A committee may change its filing frequency only once a year, after giving notice of change in filing frequency to the Commission. The committee will receive notification indicating the Commission's acknowledgment of the request. All future reports must follow the new filing frequency. 11 CFR 104.5(c).

### **Additional Information**

For more information on 2012 reporting dates:

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 (202/501-3413, document 586); or

Visit the FEC's web page at [http://www.fec.gov/info/report\\_dates\\_2012.shtml](http://www.fec.gov/info/report_dates_2012.shtml) to view the reporting tables online;

Visit the FEC's online Compliance Map at <http://www.fec.gov/info/ElectionDate/> for relevant reporting dates applicable to each state

### **Footnotes:**

1 The regulation covers individuals and organizations required to file reports of contributions and/or expenditures with the Commission, including any person making an independent expenditure. Disbursements for "electioneering communications" do not count toward the \$50,000 threshold for mandatory electronic filing. 11 CFR 104.18(a).

2 "Overnight mail" includes Priority or Express Mail having a delivery confirmation, or an overnight service with which the report is scheduled for next business day delivery and is recorded in the service's on-line tracking system. See also, generally, 11 CFR 100.19(b).

*(Posted 3/29/12; By: Myles Martin)*

## **Public Hearing on Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations**

On March 7, 2012, the Commission held a public hearing on proposed changes to its regulations concerning independent expenditures and electioneering communications by corporations and labor organizations. The Commission published a Notice of Proposed Rulemaking (NPRM) in the December 27, 2011, *Federal Register* seeking public comment on proposed changes to amend the FEC's regulations to comply with the Supreme Court's decision in *Citizens United v. FEC*. The NPRM responds to a Petition for Rulemaking from the James Madison Center for Free Speech.

After the Supreme Court's decision in *Citizens United*, the FEC released a statement saying that it would no longer enforce statutory provisions and regulations that prohibited corporations and labor organizations from making independent expenditures and electioneering communications. The NPRM proposes removing those regulations from Title 11 of the Code of Federal Regulations, and amending other regulations to comply with the court decision.

Commenters [fn1] at the hearing expressed support for removing the outdated regulations. James Bopp, representing the James Madison Center for Free Speech, said he was frustrated that invalidated regulations were still on the books.

Much of the hearing was spent discussing the Commission's two proposed alternatives for revising 11 CFR 114.2(b)(2)(i), which prohibits corporations from making "expenditures." Both approaches would implement the *Citizens United* decision by permitting corporations and labor organizations to make independent expenditures from their treasury funds. Alternative A would permit corporations and labor organizations to make all types of expenditures for non-coordinated activity regardless of whether they amount to communications. Thus, as long as the expenditures were not in-kind contributions, Alternative A would permit corporations and labor organizations to make expenditures for non-communicative expenditures such as transportation of volunteers to campaign events and voter registration drives. Alternative B would distinguish between permissible expenditures for communications and impermissible expenditures for "non-communicative" activity. The NPRM asked, for example, how the Commission should treat non-coordinated get-out-the-vote (GOTV) activities that might include both communicative and non-communicative elements.

The commenters at the public hearing generally spoke in favor of Alternative A. Michael Trister, representing the Alliance for Justice Action Campaign, argued that the First Amendment doesn't differentiate between expenditures for communications and those for non-communicative activity. Allison Hayward of the Center for Competitive Politics said it is impossible to disentangle speech and action.

She said the distinction should not be made between communicative and non-communicative expenditures, but between independent and coordinated expenditures.

Comments also focused on the NPRM's proposed changes regarding the reporting of a corporation's or labor organization's express advocacy communications that reach both the organization's restricted class and individuals outside the restricted class. Prior to *Citizens United*, corporations and labor organizations could make express advocacy communications only to their restricted classes. Payments for these restricted class communications were not considered "expenditures," but could trigger certain reporting requirements. In *Citizens United*, the Supreme Court determined corporations and labor organizations have a constitutional right to make express advocacy communications to those outside their restricted classes, and the Court also upheld the requirement that certain independent expenditures be reported. The NPRM asked how corporations and labor organizations should report spending money on express advocacy communications that reach both the restricted class and the public.

Laurence Gold, speaking on behalf of the AFL-CIO, said the most practical approach would be to allow persons making express advocacy communications to both restricted class members and the general public to allocate those expenses between the two groups of recipients, and report them accordingly. Payments for express advocacy communications that do not specifically target the restricted class would need no allocation, he said, while payments for phone calls and direct mail could be allocated in a reasonable fashion.

Finally, the NPRM proposes removing regulations at 114.14 and 114.15 in their entirety, as these sections prohibit corporations and labor organizations from making payments for electioneering communications that are the functional equivalent of express advocacy. Jan Baran, appearing on behalf of the Chamber of Commerce of the United States, said the Commission should not remove the entirety of 11 CFR 114.15, which defines electioneering communications that are the functional equivalent of express advocacy as those communications that are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified federal candidate.” The regulation contains a multi-pronged test that could help the public understand whether their speech is the functional equivalent of express advocacy in the context of coordination, Mr. Baran said.

The full text of the NPRM is available at: <http://sers.nictusa.com/fosers/showpdf.htm?docid=99892>. More information about the public hearing, as well as audio recordings and public comments, can be found at: [http://www.fec.gov/pages/hearings/corplabor\\_indexp\\_ec.shtml](http://www.fec.gov/pages/hearings/corplabor_indexp_ec.shtml).

## **FOOTNOTE**

1 The commenters at the public hearing included: James Bopp, Jr., James Madison Center for Free Speech; Michael Trister, Alliance for Justice Action Campaign; Jan Baran, Chamber of Commerce of U.S.; Laurence Gold, AFL-CIO; and Allison Hayward, Center for Competitive Politics.

*(Posted 3/14/12; By: Isaac Baker)*

## **Resources:**

- [Public Hearing \(March 7, 2012\)](#)
- [Supreme Court Decision in \*Citizens United v. FEC\*](#)

## **AO 2012-03 Nonconnected PAC May Collect and Forward Earmarked Contributions to Independent Expenditure-Only Committees or the “Non-Contribution Accounts” of Other PACs**

ActRight, a nonconnected PAC, may solicit and forward unlimited contributions earmarked for nonconnected committees that make only independent expenditures or for nonconnected committees’ “non-contribution accounts” used to finance independent expenditures (collectively “Recipient Committees”).

### **Background**

ActRight is a nonconnected political action committee that is registered with the Commission. ActRight solicits contributions via its website that are earmarked for federal candidates and forwards those contributions to the designated federal candidates’ authorized committees. ActRight intends to solicit, through the same website, unlimited contributions earmarked for the Recipient Committees. Donors will select the Recipient Committees they wish to contribute to by choosing committees that are listed on ActRight’s website. Donors will then complete a website donation form that will include a request for all required contributor information.

ActRight will deposit the contributions earmarked for the Recipient Committees into a separate bank account than the account it uses to forward earmarked contributions for federal candidates. It will then forward the contributions, along with the required contributor information, to each Recipient Committee. ActRight will not exercise any direction or control over the earmarked funds.

### **Analysis**

Commission regulations require any person who receives contributions on behalf of an unauthorized committee (i.e. a non-candidate committee) to forward the contributions it receives, along with certain contributor information, to the unauthorized committee’s treasurer in a timely manner. For instance, any person who receives a contribution in excess of \$50 on behalf of an unauthorized committee must forward the contribution, as well as the contributor’s name, address, and the date of receipt, to the committee’s treasurer within 10 days of receipt. If the contribution exceeds \$200, the contributor’s employer and occupation must also be forwarded. 11 CFR 102.8(b)(2). Contributions of \$50 or less must be forwarded within 30 days and need not include any contributor information. 102.8(b)(1).

ActRight would be receiving contributions that are earmarked for unauthorized committees, and, thus, it is required to forward the contributions it receives along with the required contributor information to the treasurers of the Recipient Committees within the timeframes stated above.


Because the contributions would not be used by ActRight, nor would ActRight maintain any direction or control over the earmarked funds, ActRight would not need to report the earmarked contributions as contributions to ActRight. However, since the earmarked contributions would be *deposited* into ActRight's separate non-contribution account and then forwarded to the Recipient Committees, ActRight would be required to report them as "Other Federal Receipts" on Line 17 of Form 3X along with an explanation that they are earmarked by the contributors for unauthorized political committees. See Advisory Opinions 1981-57 and 1983-18 and *Carey v. FEC* (D.D.C. 2011).

Since ActRight plans to forward the unlimited funds to the Recipient Committees that are permitted to receive such contributions, the Commission concluded that its proposed activity is permissible. See, *Carey v. FEC* (D.D.C. 2011) and *EMILY's List v. FEC* (D.C. Cir. 2009).

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(Posted 3/9/12: By: Myles Martin)

**Resources:**

- [Advisory Opinion 2012-03](#) [PDF; 4 pages]
- [Commission Discussion of AO 2012-03](#) 
- [Commission Statement on \*Carey v. FEC\* \(October 5, 2011\)](#)
- [Carey v. FEC Decision](#)

**AO 2012-04 Justice Party of Mississippi Will Qualify as State Party Committee Once it Nominates a Federal Candidate**

The Justice Party of Mississippi (JPM) meets some of the criteria of a state political party under the Federal Election Campaign Act (the Act) and Commission regulations, but it has not yet nominated a candidate for federal office. Once a JPM nominee for federal office appears on the election ballot as a "candidate," JPM will qualify as a state party committee.

## **Background**

JPM is affiliated with Justice Party USA, a national organization that has not yet sought the Commission's recognition as a national party committee. JPM's responsibilities include raising contributions, assisting candidates with fundraising, conducting voter registration drives, holding a state nominating convention and nominating candidates for state and federal office. JPM's bylaws set up the organization's structure, procedures and governance.

The organization is run by a state executive committee and an executive committee from each county, Congressional district and some Mississippi municipalities. The state executive committee is authorized "to conduct and certify primary elections and canvass returns as provided by law, certify party primary candidates, establish federal election committees, and do all other duties conferred upon it by state and federal law." The state executive committee prescribes and enforces party rules, regulations and penalties and also establishes standing committees to carry out the business of JPM.

The State of Mississippi recognizes JPM as a political party, which will allow JPM's nominee for President to appear on the 2012 Mississippi ballot as a JPM candidate. JPM plans to hold a state convention in June 2012 to adopt a platform, select presidential electors and nominate candidates. Ross C. "Rocky" Anderson has announced his candidacy for president as a JPM candidate, and has filed a Statement of Candidacy with the FEC, and his principal campaign committee, Rocky Anderson Our President 2012, Inc., has filed a Statement of Organization.

## **Analysis**

The Act and Commission regulations define a "political party" as an association, committee or organization that nominates a candidate for election to any federal office whose name appears on the election ballot as the candidate of that association, committee or organization. 2 USC § 431(16); 11 CFR 100.15. A "state committee" of a political party is an organization that, by virtue of the bylaws of a political party, is part of the official party structure and is responsible for the day-to-day operation of such political party at the state level, as determined by the Commission. 2 USC § 431(15); 11 CFR 100.14(a).

A state party organization that is not affiliated with a national political party will qualify as a state committee of a political party once it meets three criteria: (1) the state party organization must itself qualify as a "political party"; (2) the state party organization must itself possess an official party structure; and (3) the state party organization must be responsible for the day-to-day operation of the party at the state level. JPM's bylaws provide for an official party structure, establishing a state executive committee and district, county and municipal committees, as well as standing committees of the state executive committee, which operate consistent with JPM's bylaws. Therefore, JPM meets the second criterion.



In agreement with the Justice Party USA, JPM performs the activities necessary for the day-to-day operations of the party within Mississippi. These include responsibility for the state party's budget, fundraising activities, membership, voter registration, public education, assisting party candidates and their campaign committees, developing a platform and other responsibilities that the Commission has previously recognized as being a part of the day-day operations of a state party. See [Advisory Opinion 2008-12 \(Independent Party of Oregon\)](#). Therefore, JPM meets the third criterion.

The determination of state party status, then, rests on the first criterion. To qualify as a political party JPM must nominate at least one federal candidate who appears on the ballot as a JPM candidate. An individual is considered a candidate once he or she has received contributions aggregating more than \$5,000 or made expenditures in excess of \$5,000. 11 CFR 100.3(a)(1). While JPM has been recognized as a political party by the State of Mississippi, JPM has not yet nominated any candidates. While Rocky Anderson has indicated he is seeking to run for President as a candidate of the Justice Party, at the time of the Commission's consideration of this advisory opinion it was unclear if he or any other individual would actually be a JPM nominee for federal office and appear as such on the Mississippi ballot.

Therefore, JPM will qualify as a state committee of a political party once an individual chosen as JPM's nominee for federal office appears on the ballot and meets the definition of "candidate" under the Act and Commission regulations.

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*(Posted 3/9/12: By: Isaac Baker)*

#### **Resources:**

- [Advisory Opinion 2012-04](#) [PDF; 5 pages]
- [Commission Discussion of AO 2012-04](#) 
- [Campaign Guide for Political Party Committees](#)

### **AO 2012-05 Campaign Committee's Donation to Charity**

The Tom Lantos for Congress Committee (the Committee), the principal campaign committee of the late Congressman Tom Lantos, may donate the balance of its funds to the Lantos Foundation for Human Rights and Justice (the Foundation).

#### **Background**

Representative Lantos passed away in 2008, having spent 27 years in the U.S. Congress. The Foundation is a public charity established in 2008 to "continue the late [Congressman Tom Lantos's] work in advancing human rights." Several individuals, including members of the Congressman's family and former staff, receive compensation for their work for the Foundation.

The Committee asked if it may donate its remaining funds to the Foundation, so long as the donated funds (and any income generated from those funds) will not be commingled with other assets of the Foundation, will not be used to pay any expenses that cannot be paid from campaign funds under the Federal Election Campaign Act (the Act) and Commission regulations, and will not be used to influence any election. See 11 CFR 113.1(g)(1)(i)(A)-(J)

## **Analysis**

Under the Act and Commission regulations, campaign funds may be used to make donations to a charity. 2 USC §439a(a)(3) and 11 CFR 113.2(b). However, campaign funds may not be converted to "personal use," which occurs when funds are used to pay an expense that would exist irrespective of the candidate's campaign or duties as a federal officeholder. 2 USC §439a(b)(2); 11 CFR 113.1(g).

In this case, the Commission concluded the Committee may donate the balance of its funds to the Foundation. Commission regulations state that the "donation of campaign funds or assets to an organization described in section 170(c) of Title 26 of the United States Code are not personal use, unless the candidate receives compensation from the organization before the organization has expended the entire amount donated for purposes unrelated to his or her personal benefit." 11 CFR 113.1(g)(2). In the past, the Commission has interpreted this provision to allow campaign committees to donate to a charitable organization even when the candidate was a member of the organization's board of directors, so long as the candidate received no personal benefit. AO 1983-27 (McDaniel). Similarly, based on the information provided in this advisory opinion request, the Commission concluded that no benefit will accrue to Congressman Lantos as a result of the Committee's donation to the Foundation.

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*(Posted 3/27/12: By: Christopher Berg)*

## **Resources:**

- [Advisory Opinion 2012-05](#) [PDF; 4 pages]
- [Commission Discussion of AO 2012-05](#) 

## **Alternative Disposition of AOR 2012-01 (Stop This Insanity, Inc.)**

On March 1, 2012, the Commission considered, but could not approve a response by the required four votes, an Advisory Opinion Request from Stop This Insanity, Inc. The Commission concluded its consideration of the request without issuing an Advisory Opinion.

*(Posted 3/2/12; By: Myles Martin)*

### **Resources:**

- [Advisory Opinion Request 2012-01](#) [PDF; 2 pages]
- [Commission Consideration of AOR 2012-01](#) 

## **Committee Treasurers**

This article is intended to provide information on the responsibilities of persons serving as treasurers of committees who are required to comply with FEC regulations. It provides some answers to frequently asked questions and links to various resources provided by the FEC to help treasurers stay in compliance with the law and regulations.

### **What are the treasurer's primary responsibilities?**

A committee treasurer ensures the committee's compliance with the Federal Election Campaign Act (the Act) and the Federal Election Commission (FEC) regulations. The treasurer is responsible for:

#### *Registering the Committee*

A political committee must register with the FEC by filing a Statement of Organization (FEC Form 1) within 10 days after the committee qualifies as a "political committee" under the Act. See 11 CFR 100.5 and 102.1.

#### *Monitoring Receipts and Expenditures*

The treasurer must make sure that committee receipts are deposited in the designated campaign depository (i.e., the bank or credit union) within 10 days of receipt. 103.3(a). The treasurer must also authorize all committee expenditures or designate agents, either orally or in writing, who may authorize expenditures. 102.7(a), (c) and 102.9.

## *Recordkeeping and Reporting*

The treasurer is responsible for the timely and accurate filing of financial reports with the FEC. 104.14(d). To carry this out, and to monitor compliance with the law's limits and prohibitions, the regulations require a treasurer to maintain records of receipts and disbursements from the very beginning of the committee's operations. 102.9 and 104.14(b). The treasurer is required to preserve all records and accounts for 3 years after the report to which such records and accounts relate is filed. 102.9(c).

## *Monitoring Contributions*

The committee may not accept contributions from sources prohibited under the law or contributions that exceed that law's limits. Similarly, the committee may not make contributions that exceed the legal limits. 110.9. The treasurer is responsible for monitoring contributions received and made by the committee to ensure compliance with these requirements. 103.3(b).

## **What are a treasurer's potential liabilities?**

In enforcement actions where a political committee is a respondent, the committee's treasurer will typically be subject to Commission action only in his or her official capacity. However, when information indicates that a treasurer has knowingly and willfully violated the Act, recklessly failed to fulfill duties specifically imposed by the Act, or intentionally deprived himself or herself of facts giving rise to the violation, the Commission will consider the treasurer subject to action in a personal capacity. See [Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings](#), 70 Fed. Reg. 3 (January 3, 2005).

Under the FEC's Administrative Fines Program, committees may be required to pay civil money penalties if a treasurer files a report late or fails to file a report. See 11 CFR 111.30-111.46.

The Act and Commission regulations do not govern a treasurer's personal liability for payment of the committee's debts. In general, debt claims and liabilities are subject to relevant state law. See [Advisory Opinion 1975-102](#).

## **Do I need special qualifications to serve as treasurer?**

No. Any U.S. citizen or legal resident ("green card holder") can become a treasurer. No special training is required, but knowledge of basic accounting principles is helpful. Also, committee treasurers have special responsibilities under the law, so they should have a basic understanding of the relevant campaign finance laws.

## **Our treasurer has resigned. How do we appoint a new treasurer?**

Under the Act and Commission regulations, a political committee may not accept contributions or make expenditures without a treasurer. 102.7(b). Any change in the information disclosed on the committee's Statement of Organization, including a change in treasurers, must be reported within 10 days after the change takes place. The committee must file either an amended Statement of Organization or a letter noting the change. 102.2(a)(2). The form or letter may be signed by either the outgoing or incoming treasurer, or the assistant treasurer.

To avoid delays in reporting and other compliance problems that could develop in the treasurer's absence, the FEC recommends that all committees designate an assistant treasurer on their Statements of Organization. An officially designated assistant treasurer may function as the treasurer if the treasurer is absent or unable to exercise his or her duties. 102.7(a).

**I'm new to campaign finance. Does the FEC provide additional assistance or training opportunities?**

The FEC offers the following free publications to help treasurers carry out their duties:

- [Campaign Guide for Congressional Candidates and Committees](#);
- [Campaign Guide for Political Party Committees](#);
- [Campaign Guide for Corporations and Labor Organizations](#);
- [Campaign Guide for Nonconnected Committees](#).

The FEC will also provide free copies of the Federal Election Campaign Act and the FEC regulations.

To further assist treasurers, the FEC automatically emails them a monthly newsletter, the *Record*, and reporting notices, both of which announce reporting deadlines. In addition, the FEC conducts workshops and conferences throughout the country to explain the requirements of the campaign finance law. See [www.fec.gov/info/outreach.shtml](http://www.fec.gov/info/outreach.shtml) for these training opportunities.

Finally, the FEC provides information on its "[Resources for Committee Treasurers](#)" web page, and operates a public information office to help committee staff understand and comply with the campaign finance law. Call 800/424-9530 or e-mail [info@fec.gov](mailto:info@fec.gov) for more information.

*(Posted 3/1/2012; By: Zainab Smith)*

**Resources:**

- [Committee Treasurers Brochure](#)
- [FEC Compliance Map](#)
- [Office of Compliance](#)

## **National Party Convention Delegates**

In recent weeks the Commission has received a number of questions concerning the application of campaign finance laws to national convention delegates and individuals seeking selection as a delegate. The material that follows offers answers to frequently asked questions about FEC rules governing delegates to national nominating conventions.

### **To whom do these rules apply?**

These rules apply to any individual who is seeking selection as a delegate, or who has already been selected as a delegate, at any level of the delegate selection process (local, state or national). 11 CFR 110.14(b)(1).

### **Do delegates have to file reports with the FEC?**

No. Individual delegates are not required to register or file regular reports of the funds they raise and spend for the purpose of furthering or advocating their selection. 11 CFR 110.14(d)(3) and (e)(2). However, delegates acting as a group may have to file reports as a delegate committee. See "Do delegate committees have to file FEC reports?" below.

### **How are funds raised and spent for delegate activity treated under federal campaign finance law?**

Funds raised and spent for delegate selection are considered "contributions" and "expenditures" made for the purpose of influencing a federal election [fn1] and are therefore subject to the federal law's prohibitions.[fn2] 11 CFR 110.14(c)(1) and (2). Although the law generally does not limit contributions to delegates for the purpose of furthering their selection, 11 CFR 110.1(m)(1), 110.14(d), certain other contribution limits apply. See, e.g., 11 CFR 110.5(e). Please note that these prohibitions and limits apply to contributions of goods and services (in-kind contributions) as well as to monetary contributions. 11 CFR 100.52(d).

### **Who is prohibited from contributing to a delegate?**

Individual delegates may not accept any contributions from sources prohibited from making contributions in connection with federal elections. 11 CFR 110.14(c)(2). These sources include:

- Corporations (including banks and nonprofit corporations);
- Labor organizations;
- Foreign nationals or businesses (except "green card" holders--those admitted to the United States for permanent residence); and
- Federal government contractors (such as partnerships and sole proprietors with federal contracts). 11 CFR 110.20; 114.2; 115.2, 115.4 and 115.5.

### **What are the limits on contributions to delegates?**

Although contributions to an individual delegate for the purpose of furthering that delegate's selection are not subject to any per delegate limit, they do count against an individ-

ual contributor's biennial contribution limit of \$117,000 in 2011-2012. 11 CFR 110.1(m); 110.5(e) and 110.14(d)(1).[fn3]

**Do these rules apply if I, as a delegate, am only raising money to pay for travel to the convention?**

Yes. Travel and subsistence expenses related to the delegate selection process and the national nominating convention are considered "expenditures." 11 CFR 110.14(e). Thus, a delegate may not use prohibited funds to pay for travel to attend the national convention and related food and lodging expenses. Advisory Opinions 2000-38 and 1980-64.

**I'm a federal officeholder who will serve as a delegate. May I use my campaign funds to pay for my travel to the convention?**

Special rules apply to federal candidates or officeholders who attend the convention as delegates. While campaign funds may not be used to pay for anyone's personal expenses (i.e., expenses that would exist irrespective of the candidate's campaign or his/her duties as a federal officeholder), candidates who attend the convention as delegates may use campaign funds to pay for their own convention-related travel, food and lodging expenses. 11 CFR 110.14(c) and (e); Advisory Opinion 1995-47 n.4. The Commission has issued advisory opinions clarifying that such candidates may also use campaign funds to pay the travel and subsistence expenses of other individuals (e.g., spouse, child, Congressional staff person) in connection with the convention if the individual will be engaging in significant campaign-related or officeholder-related activity on the candidate's behalf during the convention. 11 CFR 113.1(g); AOs 1996-20, 1996-19 and 1995-47.

Although the use of campaign funds to pay someone's personal expenses is a violation of the personal use prohibition, when travel involves both personal activities and campaign (or officeholder) activities, campaign funds may be used to pay the personal portion of travel and subsistence costs if the individual reimburses the campaign within 30 days. 11 CFR 113.1(g)(1)(ii)(C); AO 2000-12.

**Do expenditures I, as a delegate, make for my own selection and travel count as contributions to a candidate?**

No. Expenditures made by delegates to advocate their own selection or by delegate committees solely to advocate the selection of one or more delegates are not considered contributions to any candidate and are not chargeable to a publicly funded candidate's spending limits. Examples of such expenditures include, for example:

- A communication which advocates the selection of delegates only; and
- Travel and subsistence expenses related to the delegate selection process and the national nominating convention. 11 CFR 110.14(e)(1) and (h)(1).

**May delegates join together to raise and spend funds?**

Yes. Under FEC regulations, they would be acting as a delegate committee. A delegate committee is a group that raises or spends funds for the sole purpose of influencing the selection of one or more delegates. A delegate committee may be a group of delegates or a group that supports delegates. 11 CFR 110.14(b)(2).

### **Do delegate committees have to file FEC reports?**

Possibly. A delegate committee becomes a "political committee" under federal law once it receives contributions or makes expenditures exceeding \$1,000 in a calendar year. 11 CFR 100.5(a) and (e)(5); 110.14(b)(2). At that point, the committee must register with the FEC within 10 days and begin filing periodic FEC reports to disclose its receipts and disbursements. 11 CFR 102.1(d) and 104.1(a). All pre-registration activity must be disclosed in the first report. 11 CFR 104.3(a) and (b). Note that a delegate committee that has triggered status as a federal political committee must include the word "delegate" or "delegates" in its name. It may also include the name of the Presidential candidate it supports. 11 CFR 102.14(b)(1).

### **Do contribution prohibitions and limits apply to delegate committees?**

The same sources that are listed above as prohibited from making contributions to a delegate are also prohibited from making contributions to a delegate committee. 11 CFR 110.14(c)(2). The following limits apply to contributions made to delegate committees:

- Contributions from permissible sources to a delegate committee are subject to an aggregate limit of \$5,000 per calendar year. 11 CFR 110.1(d) and (m)(2); 110.14(g)(1). Note, however, that if the delegate committee is affiliated with a Presidential campaign, it will share the limit applicable to the Presidential campaign. 11 CFR 110.3(a).
- Contributions by individuals to delegate committees count against an individual contributor's biennial contribution limit of \$117,000. 11 CFR 110.5(e).

### **Supporting Presidential Candidates**

#### **May a delegate or delegate committee make contributions to candidates?**

A delegate or delegate committee may contribute a maximum of \$2,500 to a federal candidate, per election. [fn4] 11 CFR 110.1(b)(1). The primary and general are considered separate elections but, in the case of Presidential candidates, the entire primary season is considered only one election. 11 CFR 100.2 and 11 CFR 110.1(j)(1).

Note that a contribution to a candidate must be reported by the candidate's committee. 11 CFR 104.1(a), 104.3(a). For this reason, when making an in-kind contribution, a delegate or delegate committee should notify the candidate's committee of the monetary value. 11 CFR 104.13(a)(1). Note also that in-kind contributions generally count against a publicly funded Presidential candidate's expenditure limits. 11 CFR 9035.1(a)(3).

#### **May a delegate or delegate committee put out a communication that promotes both the delegate(s) and the Presidential candidate supported?**

Yes. An individual delegate or a delegate committee may pay for communications that both:

- Advocate the selection of that individual delegate or of the delegates promoted by the delegate committee; and
- Refer to, provide information on or expressly advocate the election or defeat of a Presidential candidate (or candidate for any public office). 11 CFR 110.14(f) and (i).

If such a communication meets the federal campaign finance law's definition of a "public communication," it will trigger certain election law provisions. [fn5] 11 CFR 100.26. Moreover, depending on the circumstances, a portion of a dual-purpose expenditure may have to be allocated as an in-kind contribution or an independent expenditure on behalf of any



federal candidate mentioned in the ad. 11 CFR 110.14(f)(2) and (i)(2). Finally, the communication must include a disclaimer notice. 11 CFR 110.11.

### **May delegates undertake some small grassroots dual-purpose communications that do not trigger contribution limits?**

Dual-purpose expenditures for campaign materials such as pins, bumper stickers, handbills, brochures, posters and yard signs are not considered in-kind contributions on behalf of the federal candidate mentioned in the materials as long as the materials are used in connection with volunteer activities (i.e., are distributed by volunteers) and are *not* conveyed through public political advertising.<sup>[fn6]</sup> 11 CFR 110.14(f)(1) and (i)(1).

### **When would a dual-purpose expenditure count against contribution limits to a candidate?**

A portion of a dual-purpose expenditure is considered an in-kind contribution to the referenced candidate if the communication:

- Is conveyed through public political advertising (or is not distributed by volunteers); and
- Is a coordinated communication under 11 CFR 109.21.  
11 CFR 110.14(f)(2)(i) and (i)(2)(i).

### **When would a dual-purpose expenditure be considered an independent expenditure?**

A portion of a dual-purpose expenditure for a communication that is conveyed through public political advertising is considered an independent expenditure (rather than an in-kind contribution) on behalf of the candidate if the communication:

- Expressly advocates the election (or defeat) of a clearly identified candidate; and
- Is not a coordinated communication under 11 CFR 109.21.  
11 CFR 110.14(f)(2)(ii) and (i)(2)(ii).

Note that an independent expenditure, whether done by a delegate or a delegate committee, must carry a disclaimer notice and is subject to reporting requirements. For more information on independent expenditures, consult 11 CFR Part 109. For more information on disclaimers, consult 11 CFR 110.11.

### **How do you determine what amount of a dual-purpose expenditure to allocate to the Presidential candidate?**

The amount of a dual-purpose expenditure allocated as an in-kind contribution or independent expenditure on behalf of a candidate must be in proportion to the benefit the candidate receives, based on factors such as the amount of space or time devoted to the candidate compared with total space or time. 11 CFR 106.1(a)(1). *See also Explanation and Justification for Final Rule on Contributions to and Expenditures by Delegates to National Nominating Conventions*, 52 FR 35530, 35533 (Sept. 22, 1987).

### **What if a delegate or delegate committee simply distributes materials prepared by the Presidential campaign?**

Expenditures by a delegate or delegate committee to reproduce (in whole or in part) or to disseminate materials prepared by a Presidential candidate's committee (or other federal candidate's committee) are considered in-kind contributions to the candidate. Although

subject to contribution limits, this type of contribution is not chargeable to a publicly funded Presidential candidate's spending limits as long as the expenditure is not a coordinated communication under 11 CFR 109.21. 11 CFR 110.14(f)(3) and (i)(3). The materials must include a disclaimer notice. 11 CFR 110.11.

## **Affiliation**

### **Is a delegate committee considered an affiliate of the Presidential campaign? If yes, what rules apply?**

Possibly. Delegate committees--including unregistered committees--need to determine whether they are affiliated with another delegate committee or a candidate's committee because affiliated committees are considered one political committee for purposes of the contribution limits, and thus, share the same limits on contributions received and made. 11 CFR 110.3(a)(1). (Affiliated committees, may, however, make unlimited transfers to one another. 11 CFR 102.6(a)(1)(i).) If a delegate committee is affiliated with the committee of a Presidential candidate receiving public funds, then all of the delegate committee's expenditures count against the Presidential candidate's expenditure limits.

### **What are the factors indicating affiliation?**

In determining whether a delegate committee and a Presidential committee are affiliated, the Commission may consider, among other factors, whether:

- The Presidential campaign [fn7] played a significant role in forming the delegate committee;
- Any delegate associated with a delegate committee has been or is on the staff of the Presidential committee;
- The committees have overlapping officers or employees;
- The Presidential committee provides funds or goods to the delegate committee in a significant amount or on an ongoing basis (not including a transfer of joint fundraising proceeds);
- The Presidential campaign suggests or arranges for contributions to be made to the delegate committee;
- The committees show similar patterns of contributions received;
- One committee provides a mailing list to the other committee;
- The Presidential campaign provides on going administrative support to the delegate committee;
- The Presidential campaign directs or organizes the campaign activities of the delegate committee; and/or
- The Presidential campaign files statements or reports on behalf of the delegate committee. 11 CFR 110.14(j). See also, for example, AO 1988-01.

### **Do affiliation rules apply to delegate committees that have a relationship with each other?**

Possibly. Delegate committees established, financed, maintained or controlled by the same person or group are considered to be affiliated. Factors that indicate affiliation between delegate committees are found at 11 CFR 100.5(g)(4). 11 CFR 110.14(k).

## **Additional Information**

For additional information on delegates and delegate committees, contact the FEC's Information Division at 1-800/424-9530 or 202/694-1100.

## **FOOTNOTES:**

1. A national nominating convention is considered a federal election. 11 CFR 100.2(e).
2. Ballot access fees paid by an individual delegate to a political party are not considered contributions or expenditures; nor are administrative payments made by a party committee (including an unregistered organization) for sponsoring a convention or caucus to select delegates. Nevertheless, the funds used to pay these expenses are subject to the law's prohibitions and limits. 11 CFR 110.14(c)(1)(i) and (ii) and (c)(2).
3. Presidential primary candidates receiving public funding must comply with an overall spending limit and a spending limit in each state. 11 CFR 9035.1.
4. A federal candidate is a candidate seeking election to the Presidency, the Vice Presidency, the U.S. Senate or the U.S. House of Representatives. 11 CFR 100.4.
5. A public communication is a communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing (more than 500 pieces of mail or faxes of an identical or substantially similar nature within any 30-day period), telephone bank to the general public (meaning more than 500 telephone calls of an identical or substantially similar nature within any 30-day period) or any other form of general public political advertising. The term "general public political advertising" does not include communications over the Internet, except for communications placed for a fee on another person's web site. 11 CFR 100.26; 100.27 and 100.28.
6. For purposes of the delegate selection regulations, public political advertising means political advertising conveyed through broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication. 11 CFR 110.14(f)(2) and (i)(2). Direct mail means mailings by commercial vendors or mailings made from lists not developed by the individual delegate or delegate committee. 11 CFR 110.14(f)(4) and (i)(4).
7. Campaign refers to the candidate, his or her authorized committee and other persons associated with the committee.

*(Posted 3/16/2012; By: Myles Martin)*

## **Resources:**

- [FEC Rules for National Convention Delegates Brochure](#)

## **2012 Edition of CFR Now Available**

Printed copies of the 2012 edition of Title 11 of the Code of Federal Regulations (CFR) are now available from the Commission. Contact the Commission's Information Division at (202) 694-1100 or (800) 424-9530 (press 6, when prompted) to order printed copies of the CFR at no charge. You may also e-mail the Information Division to place an order at [info@fec.gov](mailto:info@fec.gov).

Title 11 of the CFR is also available on the Commission's website at <http://www.fec.gov/law/cfr/cfr.shtml>.

*(Posted March 15, 2012; By: Myles Martin)*

## **FEC to Host April 25 Seminar/Webinar for Corporations and their Political Action Committees**

The Commission will hold a seminar for corporations and their political action committees (PACs) at its Washington, DC headquarters on Wednesday, April 25. New this year, the seminar will also be offered as a webinar for those who cannot attend in person. Commissioners and staff will conduct a variety of technical workshops on the federal campaign finance laws affecting corporations and their PACs. Workshops are designed for those seeking an introduction to the basic provisions of the law as well as for those more experienced in campaign finance law. To view the [agenda](#) or to register for the seminar/webinar, please visit the seminar/webinar website at <http://www.fec.gov/info/conferences/2012/corporateseminar.shtml>.

*Webinar Information.* Seminar workshops will be simulcast for online attendees, who will see and hear all workshops and will be able to ask questions via live chat or email. Additional instructions and technical information will be provided to those who register for the webinar.

*In-Person Attendees.* The seminar will be held at the FEC's headquarters at 999 E Street, NW, Washington, DC. The building is within walking distance of several subway stations. Attendees are responsible for making their own arrangements for accommodations. The FEC recommends that individuals planning to travel to attend the seminar wait to finalize travel arrangements until their conference registration has been confirmed by Sylvester Management Corporation.

*Registration Information.* The registration fee is \$100 to attend in-person or \$75 to participate online. Registration fees include a \$25 nonrefundable transaction fee. A full refund (minus the transaction fee) will be made for all cancellations received before 5 p.m. EDT on Friday, April 20; no refund will be made for cancellations received after that time. Complete registration information is available online at <http://www.fec.gov/info/conferences/2012/corporateseminar.shtml>.

### **Registration Questions**

Please direct all questions about seminar/webinar registration and fees to Sylvester Management Corporation (Phone: 1-800/246-7277; email: [Rosalyn@sylvestermanagement.com](mailto:Rosalyn@sylvestermanagement.com)). For other questions call the FEC's Information Division at 1-800/424-9530 (press 6), or send an email to [Conferences@fec.gov](mailto:Conferences@fec.gov).

*(Posted 3/15/12; By: Dorothy Yeager)*

### **Resources:**

- [FEC Educational Outreach Opportunities](#)