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FEDERAL ELECTION COMMISSION

11 CFR Parts 8 and 111

[Notice 2010 - XX]

**Collection of Administrative Debts; Collection of Debts Arising from Enforcement
and Administration of Campaign Finance Laws**

AGENCY: Federal Election Commission.

ACTION: Final Rules and transmittal to Congress.

SUMMARY: The Federal Election Commission (“Commission”) is promulgating rules implementing statutory provisions regarding the collection of debts owed to the United States Government. The Commission is also integrating its rules regarding the collection of debts arising solely from the Administrative Fines program into the new rules.

DATES: These rules are effective on [INSERT DATE THAT IS 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION

CONTACT: Ms. Amy L. Rothstein, Assistant General Counsel, or Ms. Esther D. Heiden, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION:

1 The Commission is promulgating new rules to implement the Debt Collection
2 Improvement Act of 1996 (“DCIA”), Pub. L. No. 104-134, 110 Stat. 1321-358. The
3 DCIA governs the Federal government’s debt collection activities, and mandates that all
4 nontax debts or claims owed to the United States that have been delinquent for a period
5 of 180 days shall be referred to the U.S. Department of the Treasury or a Treasury-
6 designated collection center for appropriate action to collect or terminate collection of the
7 claim or debt. 31 U.S.C. 3711(g)(1). The purposes of the DCIA are: (1) to maximize
8 collections of delinquent debts owed to the Government by ensuring quick action to
9 enforce recovery of debts and the use of all appropriate collection tools; (2) to minimize
10 the costs of debt collection by consolidating related functions and activities and using
11 interagency teams; (3) to reduce losses arising from debt management activity by
12 requiring proper screening of potential borrowers, aggressive monitoring of all accounts,
13 and sharing of information within and among Federal agencies; (4) to ensure that the
14 public is fully informed of the Federal government’s debt collection policies and that
15 debtors are aware of their obligations to repay amounts owed to the Federal government;
16 (5) to ensure that debtors have all appropriate due process rights, including the ability to
17 verify, challenge, and compromise claims, and access to administrative appeals
18 procedures that are both reasonable and protect the interests of the United States; (6) to
19 encourage agencies, when appropriate, to sell delinquent debt, particularly debts with
20 underlying collateral; and (7) to rely on the experience and expertise of private sector
21 professionals to provide debt collection services to Federal agencies. Pub. L. No. 104-
22 134, sec. 31001(b), 110 Stat. 1321-358, 1321-358.

1 The Federal Claims Collection Standards (“FCCS”), 31 CFR parts 900-904, were
2 promulgated by the U.S. Department of the Treasury and the U.S. Department of Justice.
3 The FCCS prescribes the standards that Federal agencies must use in the administrative
4 collection, offset, compromise, and suspension or termination of collection activity for
5 civil claims of money, funds, or property as defined by 31 U.S.C. 3701(b). The FCCS
6 applies unless more specific Federal statutes or agency regulations apply, and in certain
7 cases involving bankruptcy. The FCCS clarifies and simplifies Federal debt collection
8 procedures, and prescribes the steps that an agency must take before initiating debt
9 collection to ensure that individuals’ rights are protected. These steps include notifying
10 the debtor of the debt and the consequences of failing to resolve the debt. See
11 31 CFR 901.2. The FCCS provides agencies with limited discretion to adopt agency-
12 specific regulations, tailored to the legal and policy requirements applicable to various
13 types of Federal debt.

14 The new regulations incorporate the provisions of the DCIA and the FCCS, in
15 some instances directly, and in other instances by cross-reference.

16 The Commission published a Notice of Proposed Rulemaking in the Federal
17 Register on February 24, 2010. See Notice of Proposed Rulemaking on Collection of
18 Administrative Debts; Collection of Debts Arising From Enforcement and
19 Administration of Campaign Finance Laws, 75 FR 8274 (February 24, 2010) (the
20 “NPRM”). The comment period closed on March 26, 2010. The Commission received
21 one comment in response to the proposed rules.¹

¹ This comment was from the Internal Revenue Service, stating that the Internal Revenue Service did not find any conflict between the Internal Revenue Code and Treasury regulations and the Commission’s proposed rules.

1 Under the Administrative Procedure Act, 5 U.S.C. 553(d), and the Congressional
2 Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules
3 to the Speaker of the House of Representatives and the President of the Senate, and
4 publish them in the Federal Register at least thirty calendar days before they take effect.
5 The final rules that follow were transmitted to Congress on April XX, 2010.

6 **Explanation and Justification**

7 **I. 11 CFR Part 8 – Collection of Administrative Debts**

8 The Commission is adding new part 8 and new subpart C to part 111 of its
9 regulations to provide for debt collection. The two provisions taken together are
10 designed to cover all types of debt that the Commission must collect. The approach of
11 separating the two general categories of debt in the regulations at 11 CFR part 8 and 11
12 CFR part 111 subpart C is for the convenience of the reader. Placing provisions
13 concerning the collection of debts arising from the Commission’s enforcement of the
14 campaign finance laws in 11 CFR part 111 is consistent with the current placement of the
15 regulations for collecting Administrative Fines debts with the enforcement provisions of
16 part 111; placing the other debt collection provisions in 11 CFR part 8 also enables
17 general administrative provisions to be located together.

18 **A. 11 CFR 8.1 – Purpose and scope**

19 Section 8.1 of 11 CFR provides that the purpose of the regulations is to apply the
20 collection standards set out in the DCIA and the FCCS.

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B. 11 CFR 8.2 – Debts that are covered

Section 8.2 of 11 CFR states that the new Commission regulations in part 8 cover only those debts that are either owed by current and former Commission employees, or arise from the provision of goods or services by contractors or vendors doing business with the Commission. The regulations in part 8 do not cover debts arising from compliance matters, administrative fines, alternative dispute resolution, repayments of public funds, and court judgments arising from the Commission’s enforcement of the campaign finance laws, which are covered in new 11 CFR part 111 subpart C. Section 8.2 mirrors 11 CFR 111.51. The Commission’s regulations also do not cover other types of debt that are specifically excluded from the FCCS, such as debts involving criminal actions of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other person having an interest in the claim, and debts under the Internal Revenue Code of 1986.

C. 11 CFR 8.3 – Administrative collection of claims

Section 8.3 of 11 CFR states that the Commission will collect the claims or debts covered by 11 CFR part 8 in accordance with the FCCS, and adopts by cross-reference the relevant provisions of the DCIA, and U.S. Department of the Treasury and Department of Justice debt collection regulations. See 31 U.S.C. 3701 et seq.; 31 CFR 285.2, 285.4, 285.7, 285.11, and parts 900-904. Proposed section 8.3 stated that the Commission will refer debts to the U.S. Department of the Treasury for collection no later than 180 days after the debts become delinquent. The final rule states that the Commission will refer all debts that are more than 180 days delinquent to the U.S. Department of the Treasury, and may, at its discretion, transfer delinquent debts prior to

1 the end of the 180 day period. This clarifies that the Commission need not complete the
2 referral process to Treasury within the 180 day period. Instead, the Commission is
3 required to transfer debts that are more than 180 days delinquent, and has the discretion
4 to transfer debts before they are 180 days delinquent. The rule includes examples of
5 collection actions that the U.S. Department of the Treasury might take: referral to another
6 debt collection center, referral to a private collection contractor, or referral to the
7 Department of Justice for litigation. These examples are taken from the U.S. Department
8 of the Treasury regulation governing the transfer of debts to the U.S. Department of the
9 Treasury, and are not a comprehensive list of the actions that the U.S. Department of the
10 Treasury may take in collecting such debt. See 31 CFR 285.12(c)(2). During the 180
11 days before the mandatory transfer of a debt to the U.S. Department of the Treasury, the
12 Commission may take any action under these rules to attempt to collect the debt.

13 D. 11 CFR 8.4 – Bankruptcy claims

14 Section 8.4 of 11 CFR recognizes that in cases where a debtor has sought
15 protection under the Bankruptcy Code, the Code, particularly 11 U.S.C. 553, may
16 require the Commission to take different action from that prescribed under the debt
17 collection regulations set forth in part 8 and the FCCS. In these situations, bankruptcy
18 law will govern the debt collection process.

19 E. 11 CFR 8.5 – Interest, penalties, and administrative costs

20 Section 8.5 of 11 CFR states that the Commission shall assess interest, penalties,
21 and administrative costs on debts owed to the United States, in accordance with federal
22 law. The Commission shall waive collection of interest and administrative costs on debts

1 or portions of debts that are paid within thirty days after the date on which interest begins
2 to accrue.

3 The regulation also provides that the Commission may, at its discretion, waive
4 collection of interest, penalties, or administrative costs on any debt, even debts that are
5 not paid within thirty days after the date on which interest begins to accrue. The
6 regulation states that the Commission may waive collection of interest, penalties, or
7 administrative costs if it determines that: (1) collection is against equity and good
8 conscience or is not in the best interest of the United States, including when an
9 administrative offset or installment agreement is in effect; or, (2) waiver is appropriate
10 under the criteria for compromise of debts set forth at 31 CFR 902.2(a).

11 **II. Removal of 11 CFR 111.45**

12 The Commission has removed the provision previously located at 11 CFR 111.45.
13 This provision governed debt collection with respect to the Administrative Fines
14 program. Under the new regulations, these debts are covered by 11 CFR part 111 subpart
15 C – Collection of Debts Arising from Enforcement and Administration of Campaign
16 Finance Laws.

17 **III. 11 CFR Part 111 Subpart C – Collection of Debts Arising from Enforcement
18 and Administration of Campaign Finance Laws**

19 The regulations in 11 CFR part 111 subpart C govern the Commission’s
20 collection of debts arising from compliance matters, administrative fines, alternative
21 dispute resolution, repayments of public funds, and court judgments arising from the
22 Commission’s enforcement of the campaign finance laws. The regulations cover the
23 collection of debts only, and will be invoked only after the completion of existing

1 Commission processes during which respondents or other parties have had a full and fair
2 opportunity to demonstrate that no civil penalty or repayment should be imposed. See 11
3 CFR parts 111 and 9038, and 9008.11–9008.15.

4 A. 11 CFR 111.50 – Purpose and scope

5 Section 111.50 of 11 CFR provides that the purpose of the regulations is to apply
6 the collection standards set out in the DCIA and the FCCS. This provision treats debts
7 under 11 CFR part 111 in a similar manner to those owed by employees and vendors
8 under 11 CFR 8.1, discussed above.

9 B. 11 CFR 111.51 – Debts that are covered

10 Section 111.51 of 11 CFR states that the new Commission regulations in
11 11 CFR part 111 subpart C cover only those debts arising from compliance matters,
12 administrative fines, alternative dispute resolution, repayments of public funds, and court
13 judgments arising from the Commission’s enforcement and administration of the
14 campaign finance laws. The regulations in 11 CFR part 111 subpart C do not cover debts
15 either owed by current and former Commission employees, or arising from the provision
16 of goods or services by contractors or vendors doing business with the Commission,
17 which are covered by new 11 CFR part 8. This new provision treats debts under 11 CFR
18 part 111 in a similar manner to those owed by employees and vendors under new 11 CFR
19 8.2, and the two provisions taken together are designed to cover all types of debt that the
20 Commission must collect. The Commission’s regulations also do not cover other types
21 of debt that are specifically excluded from the FCCS, such as debts involving criminal
22 actions of fraud, the presentation of a false claim, or misrepresentation on the part of the

1 debtor or any other person having an interest in the claim, and debts under the Internal
2 Revenue Code of 1986.

3 C. 11 CFR 111.52 – Administrative collection of claims

4 Section 111.52 of 11 CFR states that the Commission will collect all claims or
5 debts in accordance with the FCCS, and adopts by cross-reference the relevant DCIA,
6 U.S. Department of the Treasury, and U.S. Department of Justice debt collection
7 provisions. See 31 U.S.C. 3701 et seq.; 31 CFR 285.2, 285.4, 285.7, 285.11, and parts
8 900-904. This provision treats the debts covered by new 11 CFR part 111 subpart C in a
9 similar manner to those owed by employees and vendors under new 11 CFR 8.3,
10 discussed above. The proposed provision stated that the Commission will refer debts to
11 the U.S. Department of the Treasury for collection no later than 180 days after the debt
12 becomes delinquent. The final rule states that the Commission will refer all debts that are
13 more than 180 days delinquent to the U.S. Department of the Treasury, and may, at its
14 discretion, transfer delinquent debts prior to the end of the 180 day period. This clarifies
15 that the Commission need not complete the referral process to Treasury within the 180
16 day period. Instead, the Commission is required to transfer debts that are more than 180
17 days delinquent, and has the discretion to transfer debts before they are 180 days
18 delinquent. The rule includes examples of collection actions that the U.S. Department of
19 the Treasury might take: referral to another debt collection center, or referral to a private
20 collection contractor. These examples are taken from the U.S. Department of the
21 Treasury regulation governing the transfer of debts to the U.S. Department of the
22 Treasury, and are not a comprehensive list of the actions that the U.S. Department of the
23 Treasury may take in collecting such debt. See 31 CFR 285.12(c)(2). During the 180

1 days before the mandatory transfer of a debt to the U.S. Department of the Treasury, the
2 Commission may take any action under these rules, or may go to court under the
3 Commission’s litigating authority in 31 U.S.C. 437g to attempt to collect the debt.

4 D. 11 CFR 111.53 – Litigation by the Commission

5 Section 111.53 of 11 CFR states that nothing in the debt collection procedures
6 precludes the Commission from filing suit under 2 U.S.C. 437g to enforce compliance
7 with a conciliation agreement, seek a civil money penalty, petition the court for a
8 contempt order, or otherwise exercise its authority to enforce or administer the campaign
9 finance laws and regulations.

10 E. 11 CFR 111.54 – Bankruptcy claims

11 Section 111.54 of 11 CFR recognizes that in cases where a debtor has sought
12 protection under the Bankruptcy Code, the Code, particularly 11 U.S.C. 362, may
13 require the Commission to take different action from that prescribed under the debt
14 collection regulations set forth in part 111 and the FCCS. In this event, bankruptcy law
15 will govern the debt collection process. See 31 CFR 901.3(a)(5).

16 F. 11 CFR 111.55 – Interest, penalties, and administrative costs

17 Section 111.55 of 11 CFR states that the Commission shall assess interest,
18 penalties, and administrative costs on debts owed to the United States, as required by
19 Federal law. See 31 U.S.C. 3717. The Commission shall waive collection of interest and
20 administrative costs on debts or portions of debts that are paid within thirty days after the
21 date on which interest begins to accrue.

22 The regulation also provides that the Commission may, at its discretion, waive
23 collection of interest, penalties, or administrative costs on any debt, even debts that are

1 not paid within thirty days after the date on which interest begins to accrue. The
2 regulation states that the Commission may waive collection of interest, penalties, or
3 administrative costs if it determines that: (1) collection is against equity and good
4 conscience or is not in the best interest of the United States, including when an
5 administrative offset or installment agreement is in effect; or, (2) waiver is appropriate
6 under the criteria for compromise of debts set forth at 31 CFR 902.2(a). This provision
7 treats the debts covered by new 11 CFR part 111 subpart C in a similar manner to those
8 owed by employees and vendors under new 11 CFR 8.5, discussed above.

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10 **Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)**

11 The attached final rules do not have a significant economic impact on a
12 substantial number of small entities. There are two bases for this certification. First, the
13 attached final rules implement statutorily required processes for collecting unpaid debts,
14 and any economic impact of these rules is caused by the statutory mandate, rather than
15 agency decisions contained in these rules. Second, the provisions in the new rules relate
16 to agency management and procedure and do not impose new substantive or compliance
17 requirements directly on members of the public. If the provision regarding the imposition
18 of interest, penalties, and administrative costs could be viewed as imposing a new
19 requirement on the public, the regulation merely implements the statutory requirement
20 that the Commission assess these additional costs and provides that the Commission can
21 exercise its discretion to waive the assessment of such costs in appropriate circumstances.
22 Thus, any incremental economic impact of this rule on small entities is not significant.

1 Therefore, the Commission certifies that the attached final rules will not have a
2 significant economic impact on a substantial number of small entities.
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List of Subjects

11 CFR Part 8

Administrative practice and procedure, Debt collection procedures, Government contracts, Law enforcement, Penalties.

11 CFR Part 111

Administrative practice and procedure, Debt collection procedures, Elections, Law enforcement, Penalties.

1 For the reasons set out in the preamble, the Federal Election Commission is
2 amending Chapter 1 of Title 11 of the Code of Federal Regulations as follows:

3 1. Part 8 is added to read as follows:

4 **PART 8 – COLLECTION OF ADMINISTRATIVE DEBTS**

5 Sec.

6 8.1 Purpose and scope.

7 8.2 Debts that are covered.

8 8.3 Administrative collection of claims.

9 8.4 Bankruptcy claims.

10 8.5 Interest, penalties, and administrative costs.

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12 Authority: 31 U.S.C. 3701, 3711, and 3716–3720A, as amended; 2 U.S.C 431 et
13 seq., as amended; 31 CFR parts 285, and 900-904.

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§ 8.1 Purpose and scope.

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This part prescribes standards and procedures under which the Commission will
19 collect and dispose of certain debts owed to the United States, as described in 11 CFR

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8.2. The regulations in this part implement the Debt Collection Improvement Act of

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1996, 31 U.S.C. 3701, 3711, and 3716-3720A, as amended; and the Federal Claims

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Collection Standards, 31 CFR parts 900-904. The activities covered include: the

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collection of claims of any amount; compromising claims; suspending or terminating the

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collection of claims; referring debts to the U.S. Department of the Treasury for collection

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action; and referring debts under this part 8 of more than \$100,000 (exclusive of any

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interest and charges) to the Department of Justice for litigation.

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1 **§ 8.2 Debts that are covered.**

2 (a) The procedures covered by this part apply to debts that are either owed by current
3 and former Commission employees, or arise from the provision of goods or services by
4 contractors or vendors doing business with the Commission.

5 (b) The procedures covered by this part do not apply to any of the following debts:

6 (1) Debts that are covered by 11 CFR 111.51, regarding debts arising from
7 compliance matters, administrative fines, alternative dispute resolution,
8 repayments, and court judgments arising under the statutes specified in
9 11 CFR 111.51(a).

10 (2) Debts involving criminal actions of fraud, the presentation of a false
11 claim, or misrepresentation on the part of the debtor or any other person
12 having an interest in the claim.

13 (3) Debts based in whole or in part on conduct in violation of the antitrust
14 laws.

15 (4) Debts under the Internal Revenue Code of 1986.

16 (5) Debts between the Commission and another Federal agency. The
17 Commission will attempt to resolve interagency claims by negotiation in
18 accordance with Executive Order 12146, 3 CFR pp. 409-12 (1980 Comp.).

19 (6) Debts that have become subject to salary offset under 5 U.S.C. 5514.
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1 **§ 8.3 Administrative collection of claims.**

2 (a) The Commission shall act to collect all claims or debts. These collection
3 activities will be undertaken promptly and follow up action will be taken as appropriate
4 in accordance with 31 CFR 901.1.

5 (b) The Commission may take any and all appropriate collection actions authorized
6 and required by the Debt Collection Act of 1982, as amended by the Debt Collection
7 Improvement Act of 1996, 31 U.S.C. 3701 et seq. The U.S. Department of the Treasury
8 regulations at 31 CFR 285.2, 285.4, 285.7 and 285.11, and the Federal Claims Collection
9 Standards issued jointly by the Department of Justice and the U.S. Department of the
10 Treasury at 31 CFR parts 900-904 also apply. The Commission has adopted these
11 regulations by cross-reference.

12 (c) The Commission will refer to the Dept. of Treasury all debt that has been
13 delinquent for more than 180 days, and may refer to the Dept. of Treasury any debt that
14 has been delinquent for 180 days or less.

15 . On behalf of the Commission, the U.S. Department of the Treasury will attempt to
16 collect the debt, in accordance with the statutory and regulatory requirements and
17 authorities applicable to the debt and action. This may include referral to another debt
18 collection center, a private collection contractor, or the Department of Justice for
19 litigation. See 31 CFR 285.12 (Transfer of debts to Treasury for collection). This
20 requirement does not apply to any debt that:

- 21 (1) Is in litigation or foreclosure;
- 22 (2) Will be disposed of under an approved asset sale program;

- 1 (3) Has been referred to a private collection contractor for a period of time
2 acceptable to the U.S. Department of the Treasury; or
- 3 (4) Will be collected under internal offset procedures within three years after
4 the debt first became delinquent.
- 5 (d) The U.S. Department of the Treasury is authorized to charge a fee for services
6 rendered regarding referred or transferred debts. The Commission will add the fee to the
7 debt as an administrative cost, in accordance with 11 CFR 8.5.

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9 **§ 8.4 Bankruptcy claims.**

10 When the Commission learns that a bankruptcy petition has been filed by a
11 debtor, before proceeding with further collection action, the Commission will take any
12 necessary action in accordance with the provision of 31 CFR 901.2(h).

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14 **§ 8.5 Interest, penalties, and administrative costs.**

15 (a) The Commission shall assess interest, penalties, and administrative costs on debts
16 owed to the United States Government in accordance with 31 U.S.C. 3717 and
17 31 CFR 901.9.

18 (b) The Commission shall waive collection of interest and administrative costs on a
19 debt or any portion of the debt that is paid in full within thirty days after the date on
20 which the interest begins to accrue.

21 (c) The Commission may waive collection of interest, penalties, and administrative
22 costs if it:

- 1 (1) Determines that collection is against equity and good conscience or not in
2 the best interest of the United States, including when an administrative
3 offset or installment agreement is in effect; or,
4 (2) Determines that waiver is appropriate under the criteria for compromise of
5 debts set forth at 31 CFR 902.2(a).
6 (d) The Commission is authorized to impose interest and related charges on debts not
7 subject to 31 U.S.C. 3717, in accordance with common law.
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9 **PART 111 – COMPLIANCE PROCEDURES**

- 10 2. Subpart B is revised by removing and reserving section 111.45:

11 **Subpart B – Administrative Fines**

12 § 111.45 [Removed and reserved]

- 13 3. Subpart C is added to read as follows:

14 **Subpart C – Collection of Debts Arising from Enforcement and Administration of**

15 **Campaign Finance Laws**

16 Sec.

17 111.50 Purpose and scope.

18 111.51 Debts that are covered.

19 111.52 Administrative collection of claims.

20 111.53 Litigation by the Commission.

21 111.54 Bankruptcy claims.

22 111.55 Interest, penalties, and administrative costs.
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25 Authority: 2 U.S.C. 437g; 31 U.S.C. 3701, 3711, 3716 – 3719, and 3720A, as
26 amended; 31 CFR parts 285 and 900-904.
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29 **§ 111.50 Purpose and scope.**

1 Subpart C prescribes standards and procedures under which the Commission will
2 collect and dispose of certain debts owed to the United States, as described in 11 CFR
3 111.51. The regulations in this subpart implement the Debt Collection Improvement Act
4 of 1996, 31 U.S.C. 3701, 3711, and 3716-3720A, as amended; and the Federal Claims
5 Collection Standards, 31 CFR parts 900-904. The activities covered include: the
6 collection of claims of any amount; compromising claims; suspending or terminating the
7 collection of claims; and referring debts to the U.S. Department of the Treasury for
8 collection action.

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10 **§ 111.51 Debts that are covered.**

11 (a) The procedures of this subpart C of part 111 apply to claims for payment or debt
12 arising from, or ancillary to, any action undertaken by or on behalf of the Commission in
13 furtherance of efforts to ensure compliance with the Federal Election Campaign Act,
14 2 U.S.C. 431 et seq., as amended, and to administer the Presidential Election Campaign
15 Fund Act, 26 U.S.C. 9001 et seq., or the Presidential Primary Matching Payment Account
16 Act, 26 U.S.C. 9031 et seq., and Commission regulations, including:

- 17 (1) Negotiated civil penalties in enforcement matters and alternative dispute
18 resolution matters;
- 19 (2) Civil money penalties assessed under the administrative fines program;
- 20 (3) Claims reduced to judgment in the courts and that are no longer in
21 litigation;
- 22 (4) Repayments of public funds under the Presidential Election Campaign
23 Fund Act, 26 U.S.C. 9001 et seq.; or

1 (5) Repayment of public funds under the Presidential Primary Matching
2 Payment Account Act, 26 U.S.C. 9031 et seq.

3 (c) The procedures covered by this subpart do not apply to any of the following
4 debts:

5 (1) Debts that result from administrative activities of the Commission that are
6 governed by 11 CFR part 8.

7 (2) Debts involving criminal actions of fraud, the presentation of a false
8 claim, or misrepresentation on the part of the debtor or any other person
9 having an interest in the claim.

10 (3) Debts based in whole or in part on conduct in violation of the antitrust
11 laws.

12 (4) Debts under the Internal Revenue Code of 1986.

13 (5) Debts between the Commission and another Federal agency. The
14 Commission will attempt to resolve interagency claims by negotiation in
15 accordance with Executive Order 12146, 3 CFR pp. 409-12 (1980 Comp.).

16 (6) Debts that have become subject to salary offset under 5 U.S.C. 5514.
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18 **§ 111.52 Administrative collection of claims.**

19 (a) The Commission shall act to collect all claims or debts. These collection
20 activities will be undertaken promptly and follow up action will be taken as appropriate
21 in accordance with 31 CFR 901.1.

22 (b) The Commission may take any and all appropriate collection actions authorized
23 and required by the Debt Collection Act of 1982, as amended by the Debt Collection

1 Improvement Act of 1996, 31 U.S.C. 3701 et seq. The U.S. Department of the Treasury
2 regulations at 31 CFR 285.2, 285.4, 285.7, and 285.11, and the Federal Claims Collection
3 Standards issued jointly by the Department of Justice and the U.S. Department of the
4 Treasury at 31 CFR parts 900-904, also apply. The Commission has adopted these
5 regulations by cross-reference.

6 (c) The Commission will refer to the Dept. of Treasury all debt that has been
7 delinquent for more than 180 days, and may refer to the Dept. of Treasury any debt that
8 has been delinquent for 180 days or less. On behalf of the Commission, the U.S.
9 Department of the Treasury will attempt to collect the debt, in accordance with the
10 statutory and regulatory requirements and authorities applicable to the debt and action.
11 This may include referral to another debt collection center, or a private collection
12 contractor. See 31 CFR 285.12 (Transfer of debts to Treasury for collection). This
13 requirement does not apply to any debt that:

- 14 (1) Is in litigation or foreclosure;
- 15 (2) Will be disposed of under an approved asset sale program;
- 16 (3) Has been referred to a private collection contractor for a period of time
17 acceptable to the U.S. Department of the Treasury; or
- 18 (4) Will be collected under internal offset procedures within three years after
19 the debt first became delinquent.

20 (d) The U.S. Department of the Treasury is authorized to charge a fee for services
21 rendered regarding referred or transferred debts. The Commission will add the fee to the
22 debt as an administrative cost, in accordance with 11 CFR 111.55.

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1 **§ 111.53 Litigation by the Commission.**

2 Nothing in this subpart C precludes the Commission from filing suit
3 in the appropriate court to enforce compliance with a conciliation agreement under 2
4 U.S.C. 437g(a)(5)(D), seek a civil money penalty under 2 U.S.C. 437g(a)(6), petition the
5 court for a contempt order under 2 U.S.C. 437g(a)(11), or otherwise exercise its authority
6 to enforce or administer the statutes specified in 11 CFR 111.51(a).

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8 **§ 111.54 Bankruptcy claims.**

9 When the Commission learns that a bankruptcy petition has been filed by a
10 debtor, before proceeding with further collection action, the Commission will take any
11 necessary action in accordance with the provision of 31 CFR 901.2(h).

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13 **§ 111.55 Interest, penalties, and administrative costs.**

14 (a) The Commission shall assess interest, penalties, and administrative costs on debts
15 owed to the United States Government, pursuant to 31 U.S.C. 3717. Interest, penalties,
16 and administrative costs will be assessed in accordance with 31 CFR 901.9.

17 (b) The Commission shall waive collection of interest and administrative costs on a
18 debt or any portion of the debt that is paid within thirty days after the date on which the
19 interest begins to accrue.

20 (c) The Commission may waive collection of interest, penalties, and administrative
21 costs if it:

- 1 (1) Determines that collection is against equity and good conscience or not in
2 the best interest of the United States, including when an administrative
3 offset or installment agreement is in effect; or,
4 (2) Determines that waiver is appropriate under the criteria for compromise of
5 debts set forth at 31 CFR 902.2(a).
6 (d) The Commission is authorized to impose interest and related charges on debts not
7 subject to 31 U.S.C. 3717, in accordance with common law.

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On behalf of the Commission,

Matthew S. Petersen
Chairman
Federal Election Commission

DATED: _____
BILLING CODE: 6715-01-P