

Record

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Federal Election Commission

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Commission

Policy Statement Establishes Pilot Program for Requesting Consideration of Legal Questions

On July 1, 2010, the Commission adopted a pilot program to provide a means for early review of legal questions arising during the report review and audit processes.

Under the pilot program, persons or entities involved in the report review or audit processes that are obligated to take corrective action may request consideration of the corrective action by the Commission if a material dispute on a question of law exists. The persons or entities may seek Commission consideration within 15 days of a Reports Analysis Division or Audit Division determination that the persons or entities are obligated to take corrective action.

The Commission will not consider factual disputes under this procedure, and any requests for consideration, other than material disputes on questions of law, will not be granted. The Commission classifies a matter as a material dispute when:

- The legal issue is novel, complex or pertains to an unsettled question of law;
- There has been intervening legislation, rulemaking or litigation,

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Advisory Opinions

[AO 2010-09](#)

Corporate Sponsored IE-Only Committee May Solicit and Accept Unlimited Individual Contributions

A nonprofit corporation may establish and administer a political committee that plans to make only independent expenditures. The committee may solicit and accept unlimited contributions from individuals in the general public, including contributions given for specific independent expenditures.

Background

The Club for Growth (the Club), an incorporated 501(c)(4) organization, plans to establish, administer and pay the solicitation costs of a political committee (the Committee) that intends to solicit unlimited contributions from individuals in the general public and to use those funds to finance independent expenditures. The Committee will comply with all disclaimer and notice requirements of the Federal Election Campaign Act (the Act) and Commission regulations, and will file regular reports to disclose its activity.

The Committee does not plan to accept contributions from any political committee, candidate, labor

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Commission

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tion since the Commission last considered the issue;

- The request is contrary to or otherwise inconsistent with prior Commission matters dealing with the same issue.

The request must specify the question of law at issue and why it is subject to Commission consideration. The request may also include a discussion of prior Commission matters raising the same issue, relevant court decisions and any other analysis of the issue that may assist the Commission in decision-making.

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All requests for Commission consideration of legal questions should be directed to the Commission Secretary, Federal Election Commission, 999 E Street, NW, Washington, DC 20463. The Commission Secretary will forward a copy of the request to each Commissioner, the General Counsel and the Staff Director. Within five business days of notification to the Commissioners, if two or more Commissioners agree that the issue should be considered, the Office of General Counsel (OGC) will prepare a recommendation. OGC will circulate the recommendation for a Commission vote within 15 business days. In the event of an objection by any Commissioner, the matter shall be automatically placed on the next meeting agenda.

If, within 60 days of filing the request for consideration, the Commission cannot resolve the issue or provide guidance on how to proceed by an affirmative vote of four or more Commissioners, the Office of Compliance may proceed with the matter.

This pilot program does not circumvent or supplant the Advisory Opinion process. Legal questions that qualify for consideration as an Advisory Opinion are not appropriate for the pilot program. Further, the pilot program does not supersede the procedures for eligibility and entitlement to public funds.

The program took effect on July 20, 2010, and will last for one year, at which point the Commission will vote on whether to continue with the program.

The *Federal Register* notice describing the program is available at http://www.fec.gov/law/cfr/ej_compilation/2010/notice_2010-13.pdf.

—Stephanie Caccomo

Advisory Opinions

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organization, foreign national, government contractor or corporation, nor will it make any contributions or transfer any funds to any political committee if the amount of a contribution to the recipient committee is governed by the Act. The Committee will also not make any coordinated communications or coordinate any expenditures with any candidate, authorized committee, political party committee or agent of such persons.

In addition to the Committee, the Club maintains a separate segregated fund (SSF), Club for Growth PAC (Club PAC). The President of the Club serves as its treasurer and will also serve in that capacity for the Committee. However, the two committees will not make any contributions or transfers of funds to one another.

Analysis

Recent court decisions have altered the landscape for financing independent expenditures. In *Citizens United*, the Supreme Court found the ban on corporate independent expenditures unconstitutional. *Citizens United v. FEC*, 558 U.S. ___, 130 S. Ct. 876, 913 (2010). In *SpeechNow*, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the Act's contribution limits are unconstitutional as applied to individuals' contributions to independent expenditure groups. *SpeechNow.org v. FEC*, 599 F.3d 686, 689 (D.C. Cir. 2010). Consistent with these decisions, and based upon the facts presented, the Commission determined that the Committee may solicit and accept unlimited contributions from individuals.

That conclusion applies equally to contributions the Committee solicits specifically for independent expenditures advocating a particular candidate. Under certain circumstances, contributions given to a PAC for

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Advisory Opinions

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the benefit of a specific candidate count against the contributor's limit to the candidate, in order to avoid circumvention of the limits. 11 CFR 110.1(h). In this case, however, the Committee will not use the funds it receives to make contributions, so there is no possibility of circumventing any contribution limits.

The Commission further determined that the Club's proposed payment of the Committee's establishment, administrative and solicitation expenses is not exempt from the definition of "contribution" or "expenditure" because the Committee is not an SSF. Therefore, any establishment, administrative or solicitation expenses paid by the Club must be reported by the Committee, which exclusively makes independent expenditures, as contributions from the Club. Alternatively, the proposed political committee may pay its own establishment, administrative and solicitation expenses.

The Commission noted that many of the issues addressed in this opinion implicate forthcoming rulemakings and that the agency may need to update its registration and reporting forms to facilitate disclosure. In the meantime, a committee that intends to accept unlimited contributions for the purpose of making independent expenditures may send a letter with its Form 1 Statement of Organization to identify itself as such. A sample letter was included as an attachment to the AO, and is available on the Commission's website at http://www.fec.gov/pdf/forms/ie_only_letter.pdf. Electronic filers may include this information in a Form 99.

Date Issued: July 22, 2010;

Length: 6 pages.

—Katherine Wurzbach

AO 2010-10

Attribution of Independent Expenditures

A separate segregated fund (SSF) making independent expenditures for various ads that expressly advocate the election or defeat of one or more federal candidates, and that sometimes identify their opponents, may attribute its expenditures to candidates as described below.

Background

The requestor, National Right to Life Political Action Committee (NRL PAC), is an SSF of the National Right to Life Committee, Inc. NRL PAC intends to make independent expenditures for communications that expressly advocate the election or defeat of one or more federal candidates in one or more elections, some of which also identify the opponents of those candidates.

Analysis

Under the Federal Election Campaign Act (the Act), political committees must report their independent expenditures, including a statement of whether each independent expenditure is made "in support of or opposition to" a particular candidate. 2 U.S.C §434(b)(H)(4)(iii), §434(b)(6)(B)(iii), §434(g)(1) and (2); 11 CFR 104.3(b)(1)(vii), 104.3(b)(3)(vii)(B) and 104.4(b) and (c). SSFs making independent expenditures on behalf of more than one clearly identified federal candidate must allocate the expenditure among candidates "according to the benefit reasonably expected to be derived." 11 CFR 106.1(a)(1). The expenditure for a publication or broadcast communication shall be attributed to each candidate according to the "proportion of space or time devoted to each candidate as compared to the total space or time devoted to all candidates." 11 CFR 106.1(a).

NRL PAC presented five scenarios to the Commission and asked how

each scenario should be reported on Form 3X, Schedule E.

Ads expressly advocating the election of one clearly identified candidate that do not identify any other candidate. The Commission concluded that no allocation is necessary for ads that expressly advocate the election of one clearly identified federal candidate and do not identify another candidate. Commission rules indicate that allocation is only necessary if more than one candidate is clearly identified. 11 CFR 104.10(a) and 106.1(a)(1). Thus, the entire independent expenditure may be reported as having been made in support of the candidate identified in the communication.

Ads expressly advocating the election of one clearly identified candidate and identifying, and comparing the positions of, that candidate's opponent. In the case of an ad that expressly advocates the election of one federal candidate and identifies and compares the position of his or her opponent, no allocation is necessary. The independent expenditure is made on behalf of only one candidate, so the entire expenditure may be reported as having been made in support of that candidate. 11 CFR 106.1(a)(1) and 104.10(a).

Ads expressly advocating the election of several candidates in different elections and identifying, and comparing the positions of, those candidates' respective opponents. For ads that expressly advocate the election of several federal candidates in different races and identify and compare the positions of those candidates' opponents in those races, NRL PAC should allocate the independent expenditures among the different races, based on the time or space analysis set out in 11 CFR 106.1(a)(1). Thus, the proportion of the expenditure attributed to each race may be reported as having been made in support of the candidate advocated. 104.3(b)(3)(vii)(B).

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Advisory Opinions

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Ads expressly advocating the defeat of one clearly identified candidate that do not identify any other candidate. No allocation is necessary for ads that expressly advocate the defeat of one clearly identified federal candidate and do not identify another candidate. The entire expenditure may be reported as having been made in opposition to that candidate. 11 CFR 104.10(a).

Ads expressly advocating the election of a Presidential-Vice Presidential ticket and expressly advocating the defeat of a Senatorial candidate. Independent expenditures for ads expressly advocating the election of a Presidential ticket and expressly advocating the defeat of a Senate candidate are allocated between the two races based on a time or space analysis. The proportion of the expenditure attributed to the Presidential race may be reported accordingly in support of the Presidential-Vice Presidential ticket. 11 CFR 104.3(b)(3)(vii)(B). The proportion of the expenditure attributed to the Senate race may be reported accordingly in opposition to the Senatorial candidate. 11 CFR 104.3(b)(3)(vii)(B).

Date Issued: July 15, 2010;

Length: 7 pages

—Stephanie Caccamo

AO 2010-11

Contributions to an Independent Expenditure Committee

A nonconnected committee, established solely to make independent expenditures, may solicit and accept unlimited contributions from individuals, political committees, corporations and labor organizations.

Background

Commonsense Ten (the “Committee”) is a nonconnected political committee registered with the FEC. The Committee intends to make only

independent expenditures and wants to solicit and accept unlimited contributions from individuals, political committees, corporations and labor organizations. It will screen for and refuse contributions from foreign nationals, federal contractors, national banks and corporations organized by act of Congress. The committee will not make any monetary or in-kind contributions (including coordinated communications) to any other political committee or organization and intends to disclose its activity on reports it files with the FEC.

Analysis

Recent court decisions have altered the landscape for financing independent expenditures. In *Citizens United v. FEC*, the U.S. Supreme Court overturned the ban on corporate expenditures, holding that corporations may make unlimited independent expenditures from their general treasury funds. *See Citizens United v. FEC*, 558 U.S. ___, 130 S. Ct. 876, 913 (2010). Subsequently, the U.S. Court of Appeals for the District of Columbia Circuit held that individuals may make unlimited contributions to political committees that only make independent expenditures. *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010).

Based on the holdings of *Citizens United* and *SpeechNow*, the Commission concluded that individuals, corporations, labor organizations and political committees may make unlimited contributions to independent expenditure-only committees, like Commonsense Ten.

The Commission noted that it may update its registration and reporting forms to facilitate disclosure by these committees. In the meantime, the Committee may include a letter with its Form 1 Statement of Organization clarifying that it intends to accept unlimited contributions for the purpose of

making independent expenditures. A sample letter was included as an attachment to the AO, and is available on the Commission’s website at http://www.fec.gov/pdf/forms/ie_only_letter.pdf. Electronic filers may include this information in a Form 99.

Date Issued: July 22, 2010;

Length: 4 pages.

—Zainab Smith

Advisory Opinion Requests

AOR 2010-12

Deductions from quarterly retainer payments to directors for contributions to SSF (Procter & Gamble, May 18, 2010)

AOR 2010-13

Recognition of the Libertarian Party of Florida as the state committee of a political party (Libertarian Party of Florida, June 18, 2010)

AOR 2010-14

Disbursements from national party committee’s recount fund before general election for recount-related expenses (Democratic Senatorial Campaign Committee, June 24, 2010)

AOR 2010-15

Refund of candidate’s contributions to principal campaign committee, (Pike for Congress, July 13, 2010)

AOR 2010-16

Wholly corporate owned LLC as connected organization for SSF (EmblemHealth Services Company LLC, July 20, 2010)

AOR 2010-17

Redesignation of funds from general to special election held the same day (Stutzman for Congress, July 19, 2010)

Regulations

Effective Date for Amendments to Travel Rules

In the December 7, 2009, *Federal Register*, the Commission published final rules governing campaign travel on noncommercial aircraft and stated that it would publish a separate notice announcing the effective date of amendments to 11 CFR 9004.7, which addresses campaign travel by and on behalf of publicly funded Presidential campaigns. These amendments took effect on July 26, 2010. See the July 26, 2010, *Federal Register*, at http://www.fec.gov/law/cfr/ej_compilation/2010/notice2010-14.pdf.

—Christopher Berg

Reports

West Virginia Special Election Reporting: Senate Vacancy

West Virginia will hold a Special Election to fill the vacant U.S. Senate seat held by the late Robert Byrd. The Special Primary will be held on August 28, 2010, and the Special General will be held November 2, 2010.

Candidate committees involved in this election must follow the reporting schedule above. Please note that the reporting period for the Post-General election report spans two election cycles. For this report only, authorized committees must use the Post-Election Detailed Summary Page rather than the normal Detailed Summary Page.

PACs and party committees that file on a quarterly schedule and participate in this election must also follow the schedule above. PACs and party committees that file monthly must continue to file according to their regular filing schedule.

West Virginia Senate Special Election Reporting

Committees Involved Only in the Special Primary (08/28/10) Must File:

	Close of Books ¹	Reg./Cert./Overnight Mailing Deadline	Filing Deadline
Pre-Primary	August 8	August 13	August 16
October Quarterly	September 30	October 15	October 15

Committees Involved in Both the Special Primary (08/28/10) and the Special General (11/02/10) Must File:

	Close of Books ¹	Reg./Cert./Overnight Mailing Deadline	Filing Deadline
Pre-Primary	August 8	August 13	August 16
October Quarterly	September 30	October 15	October 15
Post-General	November 22	December 2	December 2
Year-End	December 31	January 31, 2011	January 31, 2011

¹ This date indicates the end of a reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

Timely Filing for Paper Filers

Registered and Certified Mail. Reports sent by registered or certified mail must be postmarked on or before the mailing deadline to be considered timely filed. A committee sending its reports by registered or certified 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. 2 U.S.C. §434(a)(5) and 11 CFR 104.5(e).

Overnight Mail. Reports filed via overnight mail¹ will be considered timely filed if the report is received by the delivery service on or before the mailing deadline. A commit-

tee 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. 2 U.S.C. §434(a)(5) and 11 CFR 104.5(e).

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's Office of Public Records) before the Commission's close of business on the filing deadline. 11 CFR 100.19 and 104.5(e).

Forms are available for downloading and printing 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).

Filing Electronically

U.S. Senate committees that file with the Secretary of the Senate are not subject to the mandatory elec-

¹ "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 online tracking system.

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Reports

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tronic filing rules, but may file an unofficial copy of their reports with the Commission in order to speed disclosure.

For other political committees, reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern 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.

48-Hour Contribution Notices

Note that 48-hour notices are required of the participating candidate's principal campaign committee if it receives any contribution of \$1,000 or more per source between August 9 and August 25, 2010, for the Special Primary Election, and between October 14 and October 30, 2010, for the Special General Election.

24- and 48-Hour Reports of Independent Expenditures

Political committees and other persons must file 24-hour reports of independent expenditures that aggregate at or above \$1,000 between August 9 and August 26, 2010, for the Special Primary Election, and between October 14 and October 31, 2010, for the Special General Election. This requirement is in addition to that of filing 48-hour reports of independent expenditures that aggregate \$10,000 or more during a calendar year.

Electioneering Communications

The 30-day electioneering communications period in connection with the Special Primary Election runs from July 29 through August 28, 2010. The 60-day electioneering communications period in connection with the Special General Elec-

tion runs from September 3 through November 2, 2010.

Disclosure of Lobbyist Bundling Activity

Campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,000 during the special election reporting period (see reporting schedule chart on page 5). 11 CFR 104.22(a)(5)(v). For more information on these requirements, see the March 2009 *Record*.

—Elizabeth Kurland

Nonfilers

Committees Fail to File Pre-Election Reports

The Commission cited several campaign committees for failing to file the 12-Day Pre-Election Reports required by the Federal Election Campaign Act (the Act).

Georgia Pre-Primary Report

The Commission cited one campaign committee for failing to file a Pre-Primary Report in connection with the Georgia primary election held on July 20, 2010.

As of July 16, 2010, the required disclosure report had not been received from Friends of Bobby Reese (GA-9).

The report was due on July 8, 2010, and should have included financial activity for the period April 1, 2010, through June 30, 2010. If sent by certified or registered mail, the reports should have been postmarked by July 5, 2010.

The FEC notified committees involved in the Georgia primary election of their potential filing requirements on June 14, 2010. Those

committees that did not file on the due date were sent notification on July 9, 2010, that their reports had not been received and that their names would be published if they did not respond within four business days.

Michigan and Missouri Pre-Primary Reports

The Commission cited two campaign committees for failing to file the Pre-Primary Report in connection with the Michigan and Missouri primary elections held on August 3, 2010.

As of July 30, 2010, the required disclosure reports had not been received from:

- Withers for Congress (MI-5); and
- Arthur Madden for Congress (MO-4).

The reports were due on July 22, 2010, and should have included financial activity for the period July 1, 2010, through July 14, 2010. If sent by registered or certified mail, the reports should have been postmarked by July 19, 2010.

The FEC notified committees involved in the Michigan and Missouri primary elections of their potential filing requirements on June 28, 2010. Those committees that did not file on the due date were sent notification on July 23, 2010, that their reports had not been received and that their names would be published if they did not respond within four business days.

Some individuals and their committees have no obligation to file reports under federal campaign finance law, even though their names may appear on the ballot. If an individual raises or spends \$5,000 or less, he or she is not considered a "candidate" subject to reporting under the Act.

Other political committees that support Senate and House candidates in elections, but are not authorized committees of a candidate's

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Nonfilers

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campaign, are also required to file quarterly reports, unless they report monthly. Those committee names are not published by the FEC.

Further Commission action against nonfilers and late filers is decided on a case-by-case basis. Federal law gives the Commission broad authority to initiate enforcement actions, and the Commission has implemented an Administrative Fine program with provisions for assessing monetary penalties.

—Myles Martin

Outreach

Roundtable on Pre-Election Communications

On September 15, 2010, the Commission will host a roundtable workshop to review the rules and reporting requirements for specific types of pre-election communications, including:

- Electioneering communications disseminated within 60 days of the general election;
- Independent expenditures; and
- Coordinated communications.

The presentation will also highlight recent court decisions, advisory opinions and rulemakings related to these types of communications. Attendees representing registered committees will have an opportunity to meet their Campaign Finance Analyst after the session.

The registration fee for this workshop is \$25. Payment by credit card is required prior to the seminar. A full refund will be made for all cancellations received before 5 p.m. EDT, September 10, 2010. Complete information and the registration form are available on the FEC

web site at <http://www.fec.gov/info/outreach.shtml#roundtables>. Attendance is limited and registration will be accepted on a first-come, first-served basis. Further questions about the workshop should be directed to the Information Division by phone at 800/424-9530 (press 6) or locally at 202/694-1100, or via e-mail to Conferences@fec.gov.

—Kathy Carothers

FEC to Host Reporting and E-Filing Workshops

On October 6, 2010, the Commission will host roundtable workshops on reporting and electronic filing. The reporting sessions will address common filing problems and provide answers to questions committees may have as they prepare to file their financial reports. The electronic filing sessions will provide hands-on instruction for committees that use the Commission's FECFile software and will address questions filers may have concerning electronic filing. Attendance is limited to 50 people per reporting workshop and 16 people per electronic filing workshop; the registration fee is \$25 per workshop. The registration form is available on the FEC's web site at <http://www.fec.gov/info/outreach.shtml#roundtables> and from Faxline, the FEC's automated fax system (202/501-3413, request document 590). For more information, please call the Information Division at 800/424-9530 (press 6), or locally at 202/694-1100.

—Kathy Carothers

800 Line

Redesignating and Reattributing Contributions

Candidate committees that receive an excessive contribution can remedy the violation by obtaining a redesignation or reattribution of the excessive amount. This article answers common questions regarding how and when to redesignate or reattribute an excessive contribution.

What is the difference between a redesignation and a reattribution?

A redesignation is when the contributor instructs the candidate committee in writing to use the excessive portion of a contribution for a different election than the one

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Roundtable Schedule

Pre-Election Communications

September 15, 2010
9:30 a.m.-11:00 a.m.
FEC Headquarters

Reporting Workshops

October 6, 2010
FEC Headquarters

Reporting for Candidate Committees

9:30 a.m.-11:00 a.m.

FECFile and E-Filing for PACs and Party Committees

9:30 a.m.-11:00 a.m.

Reporting for PACs and Party Committees

1:00 p.m.-2:00 p.m.

FECFile and E-Filing for Candidate Committees

1:00 p.m.-2:00 p.m.

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for which it was originally intended. A reattribution is a process by which the contributors instruct the committee in writing to attribute the excessive portion of a joint contribution to another individual.

What can I do if I receive an excessive contribution for the primary election?

If a candidate committee receives a contribution made for the primary election that exceeds the individual's limit, the committee may request a redesignation so that the excessive portion of the contribution would be applied to the limit for the general election. A redesignation of the excessive portion is only possible if the redesignation does not cause the contributor to exceed the limit for the general election. When requesting a redesignation, the committee must inform the contributor that he or she has a right to receive a refund of the excessive amount. 11 CFR 110.1(b)(5)(ii)(1). The contributor must provide the committee with a signed redesignation within 60 days of the treasurer's receipt of the initial contribution. 11 CFR 110.1(b)(5)(ii)(2).

What if my committee receives an excessive contribution drawn on a joint checking account but signed by only one account holder?

Any contribution made by more than one person (excluding partnership contributions) must include the signature of each contributor on the written instrument or on another written accompaniment to the contribution. 11 CFR 110.1(k)(1).

If a campaign receives an excessive contribution made via a written instrument with more than one individual's name imprinted on it, but only one signature, the campaign may seek a reattribution of the excessive portion to the other account holder. 11 CFR 110.1(k)(3)(i). Alternatively, the contributors may

choose to reattribute the contribution so that a different amount is attributed to each contributor. However, a joint contribution must represent the personal funds of each contributor, because contributions made in the name of another are prohibited. 11 CFR 110.4(b). When the campaign requests a reattribution, it must inform the contributors that they may instead request a refund of the excessive portion. 11 CFR 110.1(k)(3)(ii)(A)(2) and (k)(3)(ii)(B)(2). Reattributions, like redesignations, must be made within 60 days of the receipt of the original contribution. 11 CFR 103.3(b)(3).

What are the procedures for obtaining redesignations and reattributions from contributors?

The first step is depositing the contribution, which must be done within 10 days of the treasurer's receipt. If a contribution is not deposited within that timeframe, the committee must return the contribution. 11 CFR 103.3(a).

The committee must then determine whether a contribution exceeds the limits, or, in case of contributions to retire debt, whether the contribution exceeds the committee's net debts outstanding. 11 CFR 103.3(b). The Commission encourages, but does not require, campaigns to make this determination within 30 days of receiving the contribution, which allows campaigns enough time to request and receive a redesignation or reattribution within the 60-day time limit.

The committee should be prepared to issue a refund. When depositing contributions that exceed the limits or net debts outstanding for a particular election, the campaign cannot spend those funds, as it may be necessary to refund them. A campaign committee may maintain enough money in its regular campaign depository to make the refund should it need to, or the campaign could create a separate account for the purpose of depositing potentially impermissible contributions. 11 CFR

103.3(b)(4). The committee must also keep a written record noting the reason a contribution may be excessive and must include this information when reporting the receipt of the contribution. 11 CFR 103.3(b)(5).

The committee then asks the contributor to provide a written and signed statement. For redesignations, the campaign asks the contributor to provide written and signed documentation that the contributor chooses to have the excessive portion of the contribution applied to another election. 110.1(b)(5)(ii)(A). For reattributions, the campaign asks the contributor whether the contribution was intended to be a joint contribution from more than one person, and how much is attributable to each contributor. 110.1(k)(3)(ii)(A). Keep in mind that under all circumstances the campaign must offer the contributor the chance to receive a refund of the excessive portion.

Within 60 days of the treasurer's receipt of the contribution, the campaign must either obtain the redesignation or reattribution or refund the excessive portion.

The campaign treasurer is ultimately responsible for ensuring the campaign acts in compliance with the regulations regarding redesignations and reattributions. 11 CFR 103.3(a) and (b).

Can my candidate committee presumptively redesignate an excessive contribution?

When a candidate committee receives a contribution from an individual or non-multicandidate committee that exceeds the limits, the campaign may presumptively redesignate the excessive portion to the general election under the following circumstances:

- The contribution is made before the candidate's primary election;
- The contribution isn't designated in writing for a particular election;

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- The contribution would be excessive if applied to the primary election limit; and
- The contribution, as redesignated, does not cause the contributor to exceed any other contribution limit. 110.1(b)(5)(ii)(B)(1)-(4).

If the campaign receives an undesignated contribution made after the primary and before the general election, the campaign may presumptively redesignate the excessive portion to the primary election, but only if the campaign has outstanding primary debt. 110.1(b)(5)(ii)(C).

When presumptively redesignating an excessive contribution, the committee must notify the contributor within 60 days after the treasurer receives the contribution, and the committee must offer the contributor the option to receive a refund of the excessive portion.

Presumptive redesignations may only be made within one election cycle and are not an option when the contributor is a multicandidate committee.

Can my campaign presumptively reattribute a contribution?

Yes. A campaign may presumptively reattribute the excessive portion of a contribution drawn on a joint account to the other individual whose name is imprinted on the written instrument. However, this reattribution must not cause the contributor to exceed any other contribution limit. 110.1(k)(3)(ii)(B)(1). Just like with a redesignation, the campaign must notify the contributors of this reattribution within 60 days of the treasurer's receipt, and the campaign must also offer the contributors the option of receiving a refund instead.

What kinds of records need to be kept regarding redesignations and reattributions?

The committee must keep documentation for each reattribution and redesignation to verify that it was received within the 60-day time limit for making redesignations and reattributions. Documentation for a redesignation or a reattribution must include one of the following:

- A copy of the postmarked envelope bearing the contributor's name, return address or other identifying code;
- A copy of the signed statement reattributing or redesignating the contribution with a date stamp showing the date of the committee's receipt; or
- A copy of the written designation or reattribution dated by the contributor. 11 CFR 110.1(1)(6).

In the case of a presumptive redesignation or reattribution, the committee must keep a copy of the notice informing the contributor(s) of a presumptive redesignation or reattribution and offering the contributor(s) the alternative of receiving a refund. 11 CFR 110.1(1)(4)(ii).

Committees must maintain the written copies of contributors' designations, redesignations and reattributions for three years after the report or statement disclosing such information is filed. 11 CFR 102.9(c). The committee must also maintain records of any writings from contributors that accompany the contribution and any notices the committee sends to the contributor. 11 CFR 102.9(f), 110.1(l).

Additional Information

For additional information on reattributions and redesignations, contact the FEC's Information Division at 1-800-424-9530 or 202-694-1100, or by e-mail to info@fec.gov.

— Isaac J. Baker

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The Commission annually publishes an alphabetical listing of acronyms, abbreviations and common names of political action committees (PACs).

For each PAC listed, the index provides the full name of the PAC, its city, state, FEC identification number and, if not identifiable from the full name, its connected, sponsoring or affiliated organization.

This index is helpful in identifying PACs that are not readily identified in their reports and statements on file with the FEC.

To order a free copy of PACronyms, call the FEC's Disclosure Division at 800/424-9530 or 202/694-1120.

PACronyms is also available on diskette for \$1 and can be accessed free on the FEC web site at www.fec.gov.

Other PAC indexes, described below, may be ordered from the Disclosure Division. Prepayment is required.

- An alphabetical list of all registered PACs showing each PAC's identification number, address, treasurer and connected organization (\$13.25).
- A list of registered PACs arranged by state providing the same information as above (\$13.25).
- An alphabetical list of organizations sponsoring PACs showing the name of the PAC and its identification number (\$7.50).

The Disclosure Division can also conduct database research to locate federal political committees when only part of the committee name is known. Call the telephone numbers above for assistance or visit the Public Records Office in Washington at 999 E St. NW.