



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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OCT 28 2003

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Lawrence H. Norton
General Counsel

Rosemary C. Smith
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AGENDA ITEM
For Meeting of: 11-06-03

SUBJECT: Final Rules on Multicandidate Committee Status, Certain Contribution Limits, and Biennial Contribution Limits

On August 21, 2003, the Commission published a Notice of Proposed Rulemaking ("NPRM") entitled "Multicandidate Committees and Biennial Contribution Limits." That NPRM proposed rules to implement certain revisions and clarifications in light of the Bipartisan Campaign Reform Act of 2002. See 68 Fed. Register 50,488. The Commission held a hearing on the NPRM on October 1, 2003. After reviewing the written comments and testimony during the hearing, the Office of the General Counsel has prepared for Commission consideration the attached Final Rules and Explanation and Justification covering four areas: (1) multicandidate political committee status, (2) annual contributions by persons other than multicandidate committees to national party committees, (3) contributions to candidates for more than one Federal office; and (4) biennial contribution limits for individuals.

Recommendation

The Office of General Counsel recommends that the Commission approve the attached Final Rules and Explanation and Justification for publication in the *Federal Register* and transmittal to Congress.

Attachment
Draft Final Rules and Explanation and Justification

1 **FEDERAL ELECTION COMMISSION**

2 **11 CFR Parts 102 and 110**

3 **[Notice 2003 - >]**

4 **Multicandidate Committees and Biennial Contribution Limits**

5 **AGENCY:** Federal Election Commission.

6 **ACTION:** Final rules and transmittal of regulations to Congress.

7 **SUMMARY:** The Federal Election Commission is revising its rules covering
8 four areas: (1) multicandidate political committee status, (2)
9 annual contributions by persons other than multicandidate
10 committees to national party committees, (3) contributions to
11 candidates for more than one Federal office; and (4) biennial
12 contribution limits for individuals. These final rules provide that
13 once a political committee satisfies certain criteria, it automatically
14 becomes a multicandidate committee and is required to notify the
15 Commission of its new status. The final rules also update the limit
16 on contributions from persons other than multicandidate
17 committees to national party committees and to candidates running
18 for more than one Federal office. In addition, the final rules adjust
19 the attribution of contributions to candidates from individuals
20 under the biennial limits. Further information is provided in the
21 supplementary information that follows.

22 **EFFECTIVE**

23 **DATE:** [Insert date thirty days after date of publication in the Federal
24 Register]

1
2 **FOR FURTHER**
3 **INFORMATION**
4 **CONTACT:**

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Richard T. Ewell, Attorney, or Mr. Albert J. Kiss, Attorney, 999 E
Street N.W., Washington, DC 20463, (202) 694-1650 or (800)
424-9530.

8 **SUPPLEMENTARY**
9 **INFORMATION:**

These final rules address four different issues. First, the
Commission confirms that political committees automatically become multicandidate
committees once certain statutory requirements are met. Second, the Commission
updates the annual limit on contributions from persons other than multicandidate
committees to national party committees to conform to the change made by Congress in
the Bipartisan Campaign Reform Act of 2002 ("BCRA"). Third, the Commission
implements a separate conforming change to the limits on contributions to candidates
running for more than one Federal office. Finally, the Commission corrects its rules
governing the biennial limit on aggregate individual contributions in light of BCRA.
These final rules implement the provisions of the Federal Election Campaign Act of
1971, as amended ("FECA" or the "Act"), 2 U.S.C. 431 *et seq.*

The Notice of Proposed Rulemaking ("NPRM"), on which these final rules are
based, was published in the Federal Register on August 21, 2003. 68 FR 50,488 (August
21, 2003). The comment period was originally set to close on September 19, 2003, but
the Commission extended the comment period until September 29, 2003. The

1 Commission received seven comments on the proposed rules.¹ The Commission held a
2 public hearing on this and three other rulemakings on October 1, 2003. Seven witnesses
3 testified during the hearing. Transcripts of the hearing are available at
4 <<http://www.fec.gov/register.htm>>. Please note that, for purposes of this document, the
5 terms “commenter” and “comment” apply to both written comments and oral testimony at
6 the public hearing.

7 Under the Administrative Procedures Act, 5 U.S.C. 553(d), and the Congressional
8 Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules
9 to the Speaker of the House of Representatives and the President of the Senate, and
10 publish them in the Federal Register at least 30 calendar days before they take effect. The
11 final rules that follow were transmitted to Congress on November >>, 2003.

12

13 **Explanation and Justification**

14 11 CFR 102.2 Statement of Organization; Forms and committee identification number

15 Section 441a(a)(4) of the FECA provides that, “the term ‘multicandidate political
16 committee’ means a political committee which has been registered with [the Commission
17 or Secretary of the Senate] for a period of not less than six months, which has received
18 contributions from more than 50 persons, and except for any State political party
19 organization, has made contributions to 5 or more candidates for Federal office.”

¹ The Commission received written comments from: Perkins, Coie LLP; The Campaign Legal Center, National Republican Senatorial Committee, Republican National Committee; Sandler, Reiff & Young, P.C.; attorneys Lyn Utrecht, Eric Kleinfeld, Pat Fiori, and James Lamb of Ryan, Phillips, Utrecht & MacKinnon; and the Internal Revenue Service.

1 2 U.S.C. 441a(a)(4). On the basis of this statutory provision, the Commission's rules at
2 11 CFR 100.5(e)(3) define a "multicandidate committee" as a political committee
3 meeting these three requirements.

4 To monitor compliance with the contribution limits for multicandidate political
5 committees set out at 11 CFR 110.2, the Commission has required such committees to
6 file FEC Form 1M to certify that they satisfied the criteria for becoming multicandidate
7 political committees. See discussion below regarding revisions to 11 CFR 110.2.
8 Specifically, 11 CFR 102.2(a)(3) formerly required that this certification be filed before a
9 political committee may avail itself of the multicandidate committee contribution limits.

10 In the NPRM, the Commission proposed amending 11 CFR 102.2(a)(3) to
11 eliminate the requirement that a political committee file Form 1M with the Commission
12 before making any contributions under the increased contribution limits with respect to
13 candidates in 11 CFR 110.2(b). The only comment on this issue indicated that the
14 Commission's approach would be consistent with a determination that multicandidate
15 status is mandatory rather than elective, but would not be consistent with a general rule
16 permitting political committees to choose their status.

17 For the reasons stated in the Explanation and Justification for 11 CFR 110.2, the
18 Commission views multicandidate committee status as automatic once all three necessary
19 criteria are satisfied. Therefore, the Commission is revising 102.2(a)(3) to specify that a
20 political committee must certify its status as a multicandidate committee within ten days
21 of satisfying the requirements of 11 CFR 100.5(e)(3). This certification provides clear
22 notice of the political committee's status to recipients of contributions from the
23 committee, and to the Commission. The ten-day requirement was selected because it

1 corresponds to the analogous time requirement for a political committee to report any
2 changes to its Statement of Organization. See 11 CFR 102.2(a)(2).

3 The Commission specifically sought comment on how it should address a
4 situation where a political committee qualifies for multicandidate status, yet does not
5 certify its status within ten days, and, once so qualified, makes a contribution exceeding
6 \$2,000 to a candidate for Federal office. None of the commenters addressed this issue.
7 Because the previous rule at 11 CFR 102.2(a)(3) required a committee to certify its
8 multicandidate status prior to making a contribution in excess of the limit for non-
9 multicandidate committees, failure to comply with the previous rule resulted in both a
10 reporting violation and an excessive contribution. Given the removal of the ban on
11 making contributions of (in the previous rule) more than \$1,000 without filing the
12 certification, the Commission concludes that failure to comply with the new rule is a
13 violation of the reporting requirements of 2 U.S.C. 434, but not an excessive contribution
14 so long as the amount is within the contribution limits prescribed for individuals and
15 political committees lacking multicandidate committee status.

16
17 11 CFR 110.1 Contributions by persons other than multicandidate political committees

18 A. 11 CFR 110.1(c) Contributions by persons other than multicandidate committees to
19 national party committees

20 In section 307(a)(2) of BCRA, Congress raised the annual aggregate limit on
21 contributions by persons other than multicandidate political committees to national
22 political party committees from \$20,000 to \$25,000. 2 U.S.C. 441a(a)(1)(B). The
23 Commission proposed revising the corresponding regulation in 11 CFR 110.1(c)(3) to

1 reflect this statutory change. 68 FR 50490. The Commission received no comments on
2 this proposal. The Commission is therefore revising 11 CFR 110.1(c)(3) as proposed in
3 the NPRM to reflect accurately the new annual aggregate limit.

4

5 B. 11 CFR 110.1(f) Contributions to candidates for more than one Federal office

6 In BCRA, Congress raised the per election limit on contributions to candidates
7 from persons other than multicandidate committees from \$1,000 to \$2,000. 2 U.S.C.
8 441a(a)(1)(A). The Commission is accordingly revising 11 CFR 110.1(f) to conform its
9 regulations to this new statutory limit. Because the Commission's rules must accurately
10 reflect Congress's decision to adjust this contribution limit, which took effect on January
11 1, 2003, it is appropriate to implement this higher limit in the final rules. This provision
12 was not discussed in the NPRM. The Commission determines that, under section
13 553(b)(3) of the Administrative Procedure Act, good cause exists to implement this
14 technical and conforming change without delay. It is not necessary to seek public
15 comment at this point when the Commission obtained and fully considered public
16 comment on the underlying rules at 11 CFR 110.1(a) implementing the contribution
17 limits. See Final Rules and Explanation and Justification for Contribution Limitations
18 and Prohibitions, 67 FR 69,928 (Nov. 19, 2002). Accordingly, the Commission is issuing
19 this final rule without notice and comment.

20

21 11 CFR 110.2 Contributions by multicandidate political committees

22 11 CFR 110.2 sets forth contribution limits for multicandidate political
23 committees in accordance with 2 U.S.C. 441a(a)(2). FECA, prior to BCRA, provided

1 significantly higher limits on contributions to candidates for political committees with
2 multicandidate status than for those without that status (\$5,000 per election versus
3 \$1,000). BCRA raised and indexed for inflation the contribution limit for non-
4 multicandidate committees (to \$2,000 per election). As the Commission explained in the
5 NPRM, due to the inflation adjustment this non-multicandidate committee limit may
6 eventually exceed the limit imposed on multicandidate committees. See 2 U.S.C.
7 441a(c). If this occurs, it will create a disincentive for attaining multicandidate political
8 committee status.

9 In addition, BCRA increased the limit on non-multicandidate committee
10 contributions to national party committees from \$20,000 to \$25,000 per year. Yet
11 Congress did not similarly adjust the limit on multicandidate committee contributions to
12 the same national party committees. That limit remains \$15,000 per year, as it was prior
13 to BCRA. 2 U.S.C. 441a(a)(1)(B) and (2)(B). Furthermore, Congress did not index for
14 inflation the contribution limit for multicandidate committees, which means that over
15 time the current \$10,000 difference in the respective contribution limits to national party
16 committees will increase. 2 U.S.C. 441a(c).

17 In light of these statutory changes, the Commission sought comment on whether
18 political committees may elect to opt out of multicandidate committee status even if they
19 meet the three criteria of 2 U.S.C. 441a(a)(4) and 11 CFR 100.5(e)(3). Two commenters
20 addressed this question. One commenter asserted that the language of 2 U.S.C.
21 441a(a)(4) clearly indicates that multicandidate status is automatically conferred when the
22 three criteria are met. This commenter urged the Commission to adopt the changes to its
23 regulations as proposed in the NPRM. While acknowledging the potential disadvantages

1 of multicandidate status created by Congress through BCRA, this commenter observed
2 that political committees may still elect to “opt out” of multicandidate status by refraining
3 from meeting one or more of the three criteria (i.e., by only contributing to 4 candidates).

4 On the other hand, a different commenter opposed mandatory status, arguing that
5 the Commission should change its regulations to ensure that political committees are not
6 forced to accept multicandidate status if they do not perceive that status as beneficial.
7 The criteria in 2 U.S.C. 441a(a)(4), this commenter asserted, were “selected by Congress
8 to identify committees entitled to preferred treatment” because “it believed that
9 committees with these attributes were less likely to be employed by individuals for the
10 purpose of circumventing the individual contribution limit.” This commenter agreed with
11 the Commission’s assessment in the NPRM that post-BCRA multicandidate status could
12 become a liability, rather than a benefit, in some circumstances. Therefore, this
13 commenter cautioned that multicandidate status should not be mandatory unless the
14 Commission is “extremely confident” that Congress now intends to disadvantage
15 multicandidate committees.

16 The Commission notes that Congress did not take certain steps with regard to
17 multicandidate committees that it took with regard to other political committees and
18 individuals, such as indexing contribution limits for inflation and increasing the
19 contribution limit to national party committees. The Senator who offered the amendment
20 to increase the contribution limits for non-multicandidate committees explained its
21 purpose shortly before the Senate voted to approve the BCRA in its near final form:

22 The Thompson-Feinstein amendment, by increasing the limit on individual
23 and national party committee contributions to Federal candidates, will

1 reduce the need for raising campaign funds from political action
2 committees, PACs. Our amendment, therefore, will reduce the relative
3 influence of PACs, making it easier to replace PAC monies with funds
4 raised from individual donors.

5 148 Cong. Rec. S2154 (daily ed. Mar. 20, 2002) (statement of Sen. Feinstein).

6 Accordingly, the final rules adopt the approach that best comports with the plain
7 language of 2 U.S.C. 441a(a)(4): a political committee becomes a multicandidate
8 committee once it has been registered with the Commission or Secretary of the Senate for
9 a period of not less than six months, has received contributions from more than 50
10 persons, and has made contributions to 5 or more candidates for Federal office.
11 Specifically, the Commission is adding a sentence to 11 CFR 110.2(a) to confirm this
12 result. To address situations where a multicandidate political committee achieves
13 multicandidate status through affiliation with a pre-existing multicandidate committee,
14 the Commission is adding additional language to 11 CFR 110.2(a)(3) to specify that both
15 affiliated committees would automatically be multicandidate committees at the time of
16 affiliation.

17 It is important to note that the only “disadvantage” that multicandidate committees
18 currently face is the lower limit on contributions to national political party committees.
19 Notwithstanding the latter commenter’s assertions that “[t]his unexplained different
20 treatment is more likely the result of a political compromise than it is a product of a
21 considered judgment,” Congress clearly set lower limits even before BCRA for
22 multicandidate committee contributions to national party committees than for other
23 political committees’ contributions to national party committees. The multicandidate

1 committee contribution limits with respect to all Federal candidates, however, still remain
2 \$3,000 higher than the contribution limits for other political committees. To the extent
3 that some future disadvantage actually emerges from the fact that multicandidate
4 committee contribution limits are not indexed for inflation, it would be for Congress to
5 reconsider the contribution limits it established. The Commission has submitted a
6 legislative recommendation urging Congress to do so. FEC ANNUAL REPORT 2002, at 46.
7 At present, the Commission implements what it deems the most straightforward reading
8 of the language of 2 U.S.C. 441a(a)(4).

9 The same commenter also noted, under current law, State party committees are
10 automatically treated as multicandidate committees regardless of whether they make
11 contributions to five or more candidates. See 11 CFR 100.5(e)(3). Thus, a State party
12 committee could be negatively impacted to the same extent as other multicandidate
13 committees by Congress's conspicuous choice to index one set of contribution limits to
14 inflation but not the limits of multicandidate committees. The commenter urged the
15 Commission to permit State party committees to opt out of multicandidate committee
16 status for the same reasons set forth above. The Commission declines to do so for the
17 reasons explained above.

18
19 11 CFR 110.5(c) Application of the Aggregate Biennial Contribution Limitation for
20 Individuals

21 Prior to BCRA, total contributions by an individual were limited to \$25,000 in
22 any calendar year. Also, any contribution made to a candidate with respect to an election
23 in a year other than the calendar year in which the election is held was considered to be

1 made during the calendar year in which the election is held. 2 U.S.C. 441a(a)(3) (2001).

2 Thus, when individuals made contributions to candidates for elections to be held in years
3 after the calendar year the contribution was made, those contributions counted against the
4 contributor's \$25,000 annual contribution limit for the year of the future election, instead
5 of the year the contribution was actually made. The Commission implemented this
6 statutory provision in 11 CFR 110.5(c).

7 After BCRA, section 441a(a)(3) provides that contributions made in a specified
8 two-year period (i.e., "the period which begins on January 1 of an odd-numbered year and
9 ends on December 31 of the next even-numbered year") may not exceed \$37,500, in the
10 case of contributions to candidates and the authorized committees of candidates, and
11 \$57,500 in the case of other contributions. Also, in BCRA, Congress removed the
12 language of former section 441a(a)(3) that treated some contributions as made in a year
13 other than the year in which actually made (i.e., the year the election is held).

14 In the NPRM, the Commission noted that, despite these statutory changes, it had
15 retained 11 CFR 110.5(c) when it revised section 110.5 in 2002 after passage of BCRA.
16 See Contribution Limitations and Prohibitions; Final Rules, 67 FR 69,928 (November 19,
17 2002). The NPRM proposed to amend section 110.5(c) to state that, for purposes of the
18 biennial contribution limits in section 441a(a)(3) and 11 CFR 110.5(b), a contribution to a
19 candidate will be attributed to the two-year period in which the contribution is actually
20 made, regardless of when the election with respect to which it is made is held. 68 FR.
21 50,488, 50,490.

22 In the final rules, the Commission has bifurcated 11 CFR 110.5(c) into two
23 paragraphs. New paragraph (c)(1) of section 110.5 applies to contributions made on or

1 after January 1, 2004. The Commission chose this date for two reasons. First, beginning
2 the operation of the new rule with the new year will minimize confusion. Second, it will
3 insure that the change will occur at the beginning of a reporting period for most filers.
4 The final rule is otherwise the same as the proposed rule in the NPRM. New paragraph
5 (c)(2) applies to contributions made before January 1, 2004. It otherwise is the same as
6 the rule in previous 11 CFR 110.5(c). New paragraph (c)(2) is included in the final rules
7 to preclude any question of the retroactive application of paragraph (c)(1) to contributions
8 made before the effective date of the regulation in reliance on the Commission's previous
9 interpretation of post-BCRA section 441a(a)(3).

10 For example, under new paragraph (c)(1) of section 110.5, a contribution made in
11 2004 to a candidate in a 2006 Senate race is attributed to the individual's biennial limit for
12 the 2003-2004 period. Similarly, a contribution made in 2005 to a candidate in the 2008
13 presidential race is attributed to the individual's biennial limit for the 2005-2006 period.
14 In addition, a contribution made during 2007 to retire debt from a 2006 House election is
15 attributed to the individual's biennial limit for the 2007-2008 period. Under new
16 paragraph (c)(2), as under the previous language of 11 CFR 110.5(c), a contribution made
17 in 2003 to a candidate in a 2006 Senate race would be attributed to the individual's
18 biennial limit for the 2005-2006 period.

19 There was no consensus among the commenters in response to the NPRM. One
20 commenter supported the Commission's proposals, stating that the language of section
21 441a(a)(3) as amended "plainly attributes candidate contributions by individuals to the
22 aggregate limit for the two-year period in which such contributions are actually made."
23 This commenter opined that "conforming the FEC's regulation [at section 110.5(c)] to the

1 revised statute's clear requirement that individuals' hard money contributions to
2 candidates tally against their aggregate limit for the two-year period in which such
3 contributions are actually made would eliminate the confusion (and inadvertent donor
4 violations) that prevailed under the previous approach." As such, this commenter asserts
5 that the NPRM's proposed change would lessen, not increase confusion.

6 On the other hand, several commenters were opposed to the NPRM's proposed
7 changes. Some commenters asserted that confusion will ensue for both contributors and
8 recipient candidates. A commenter observed that if the proposed changes were made,
9 contributors may have multiple contributions to the same candidate that would count
10 toward different biennial limits and this may be very confusing to contributors. To
11 mitigate any confusion, the Commission has decided to continue to apply the previous
12 rule prior to January 1, 2004, and to apply the new rule on and after that date. This
13 approach ensures that the new rules will not have retroactive application.

14 Some comments asserted that the Commission should not penalize donors who
15 may have inadvertently exceeded the \$37,500 limit for the 2003-04 two-year period, to
16 the extent that the donor exceeded the limit as a result of contributions made before the
17 effective date of the Commission's proposed new rule to candidates that are not running
18 in the 2003-04 two-year period. Because the Commission's final rule does not change the
19 treatment of contributions made prior to the effective date of the new rule, contributors
20 will not have inadvertently exceeded the \$37,500 limit for the 2003-04 two-year period
21 based on the Commission's new rules.

22 Several commenters focused on the reliance interest that contributors, candidates
23 and political committees have in the current language of section 110.5(c), and suggested

1 either a deferred effective date for the new rule (e.g., January 1, 2005), or adoption of a
2 transition rule that fairly treats those who have reasonably relied upon the existing
3 regulation. Commenters asserted that a deferred effective date is needed because
4 changing the rule in the middle of an election cycle could cause inadvertent violations. In
5 its final rule for section 110.5(c), the Commission accommodates contributors' reliance
6 interest by preserving the previous language of section 110.5(c) for contributions made
7 prior to January 1, 2004. However, the Commission does not interpret section
8 441a(a)(3), as amended by BCRA, to permit a transition period. The Commission is also
9 concerned that any transition period is likely to engender additional confusion.

10 Some comments suggested that current section 110.5(c) is primarily related to
11 candidates for the U. S. Senate, and that changing the provision would have an adverse
12 impact on Senate candidate fundraising, because the proposed rule will limit a Senator's
13 ability to raise funds in the first four years of his or her term. For example, a contributor
14 who intends to contribute \$37,500 every biennial period may be disinclined to contribute
15 to a 2006 candidate during the 2004 election cycle if it counts against his or her 2004
16 aggregate biennial limit rather than the 2006 cycle limit. The Commission has considered
17 these comments, but observes that it is required to respond to Congress' changes to
18 section 441a(a)(3), and must give effect to Congress' deletion of the statutory provision
19 on which the regulatory provision was based.

20 A commenter asserted that the Commission should not, before the effective date
21 of the new rule, count contributions made to a candidate not running in the 2003-04 two-
22 year period against the donor's aggregate limit for the cycle in which the candidate is
23 running, asserting that such an application of the limit would "clearly be contrary to

1 section 441a(a)(3)(A).” The Commission observes that under the previous language of
2 section 110.5(c), a contribution made to a candidate not running in the 2003-04 two-year
3 period was counted against the donor’s aggregate limit for the two-year period in which
4 the candidate is running. This comment suggests, in effect, that the Commission ignore,
5 or suspend the operation of, the previous language of section 110.5(c) for contributions
6 made before January 1, 2004. The Commission declines to either ignore or suspend the
7 operation of the previous language of section 110.5(c) for contributions made before
8 January 1, 2004.

9
10 **Certification of No Effect Pursuant to 5 U.S.C. 605(b)**

11 **[Regulatory Flexibility Act]**

12 The attached rules will not have a significant economic impact on a substantial
13 number of small entities. The basis of this certification is that State and local party
14 committees of the two major political parties and most other political committees are not
15 small entities under 5 U.S.C. 601 because they are not small businesses, small
16 organizations, or small governmental jurisdictions. Further, individual citizens operating
17 under these rules are not small entities.

18 To the extent that any persons subject to these rules may fall within the definition
19 of “small entities,” these rules do not impose a significant economic impact on those
20 persons. These rules do not change the criteria for status as a multicandidate committee;
21 they merely confirm that this status acquired automatically when the existing criteria are
22 met. The one modified filing requirement merely replaces a similar filing requirement
23 that is removed, and no new compliance efforts are required. The remainder of the final

1 rules are conforming changes updating existing regulations to new contribution limits set
2 by Congress. As such, these updates require no new or increased disclosure, or other
3 requirements that would increase compliance costs.

4

5 **List of Subjects**

6 11 CFR Part 102

7 Political committees and parties, reporting and recordkeeping requirements.

8 11 CFR Part 110

9 Campaign funds, political committees and parties.

1 For the reasons set out in the preamble, the Federal Election Commission is
2 amending subchapter A of chapter 1 of title 11 of the Code of Federal Regulations as
3 follows:

4 **PART 102 – Registration, Organization, and Recordkeeping by Political**
5 **Committees (2 U.S.C. 433)**

6 1. The authority citation for part 102 continues to read as follows:

7 Authority: 2 U.S.C. 432, 433, 434(a)(11), 438(a)(8), 441d.

8 2. Section 102.2 is amended by revising paragraph (a)(3) to read as follows:

9 **§ 102.2 Statement of organization: Forms and committee identification number**
10 **(2 U.S.C. 433(b), (c)).**

11 (a) * * *

12 (3) A committee shall certify to the Commission that it has satisfied the
13 criteria for becoming a multicandidate committee set forth at 11 CFR
14 100.5(e)(3) by filing FEC Form 1M ~~before it makes any contributions to~~
15 ~~candidates that exceed \$1000 per election~~ no later than ten (10) calendar
16 days after qualifying for multicandidate committee status.

17 * * * * *

18
19 **PART 110 – CONTRIBUTION AND EXPENDITURE LIMITATIONS AND**
20 **PROHIBITIONS**

21 3. The authority citation for part 110 continues to read as follows:

22 Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d, 438(a)(8), 441a, 441b, 441d,
23 441e, 441f, 441g, 441h, and 441k.

1 4. Section 110.1 is amended by:

2 a) revising paragraph (c)(3); and

3 b) revising the introductory language in paragraph (f).

4 The revisions and additions read as follows:

5 **§ 110.1 Contributions by persons other than multicandidate political committees**

6 **(2 U.S.C. 441a(a)(1)).**

7 * * * * *

8 (c) * * *

9 (3) Each recipient committee referred to in 11 CFR 110.1(c)(2) may receive
10 up to the ~~\$20,000~~25,000 limitation from a contributor, but the limits of 11
11 CFR 110.5 shall also apply to contributions made by an individual.

12 * * * * *

13 (f) Contributions to candidates for more than one Federal office. If an individual is a
14 candidate for more than one Federal office, a person may make contributions which do
15 not exceed ~~\$1,000~~2,000 to the candidate, or his or her authorized political committees for
16 each election for each office, as long as --

17 * * * * *

18 5. Section 110.2 is amended by revising paragraph (a)(1) to read as follows:

19 **§ 110.2 Contributions by multicandidate political committees (2 U.S.C. 441a(a)(2)).**

20 (a) (1) Scope. This section applies to all contributions made by any
21 multicandidate political committee as defined in 11 CFR 100.5(e)(3). See
22 11 CFR 102.2(a)(3) for multicandidate political committee certification
23 requirements. A political committee becomes a multicandidate committee

1 at the time the political committee meets the requirements of 11 CFR
2 100.5(e)(3) or becomes affiliated with an existing multicandidate
3 committee, whether or not the political committee has certified its status as
4 a multicandidate committee with the Commission in accordance with 11
5 CFR 102.2(a)(3).

6 * * * *

7 6. The section heading for section 110.5 is amended by replacing “bi-annual” with
8 “biennial.”

9 7. Section 110.5 is amended by revising paragraph (c) to read as follows:

10 **§ 110.5 Aggregate biennial contribution limitation for individuals (2 U.S.C.**
11 **441a(a)(3)).**

12 * * * *

13 (c) (1) Contributions made on or after January 1, 2004. Any contribution subject
14 to this paragraph (c)(1) to a candidate or his or her authorized committee
15 with respect to a particular election shall be considered to be made during
16 the two-year period described in paragraph (b)(1) of this section in which
17 the contribution is actually made, regardless of the year in which the
18 particular election is held. See 11 CFR 110.1(b)(6). This paragraph (c)(1)
19 also applies to earmarked contributions and contributions to a single
20 candidate committee that has supported or anticipates supporting the
21 candidate.

22 (2) Contributions made prior to January 1, 2004.

(i) For purposes of this paragraph (c)(2), a contribution to a candidate or his or her authorized committee with respect to a particular election shall be considered to be made during the calendar year in which such election is held.

(ii) For purposes of this paragraph (c)(2), any contribution to an unauthorized committee shall not be considered to be made during the calendar year in which an election is held unless:

(A) The political committee is a single candidate committee
which has supported or anticipates supporting the
candidate; or

(B) The contribution is earmarked by the contributor for a particular candidate with respect to a particular election.

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Ellen L. Weintraub
Chair
Federal Election Commission

DATED _____
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