

Party Operations Part 1: Committee Basics and Fundraising



February 22, 2012
11:15 a.m. – 12:45 p.m.
Tab #3



Objectives

- **Identify different types of accounts**
- Review contribution limits, prohibitions and exemptions
- Discuss disclosure rules for contributions bundled by lobbyists
- Examine methods of supporting candidates

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Party Accounts

Review

- Political committees must have \geq one checking account at a federally insured institution
- Committees may invest funds, but all receipts and disbursements thru checking account

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I. Organize Accounts

A. Establishing a Federal Account (11 CFR 103.2 and 103.3)

1. Party committee must establish one or more federal accounts and designate a campaign depository at a federally insured institution.
2. Committee may invest the funds, but all federal receipts and disbursements must be made through the checking account.



Impact of BCRA on Parties

- ➔ Prohibit national parties from raising or spending nonfederal funds
- ➔ Require state/local parties to pay for certain Federal Election Activities (FEA) with 100% federal funds; may use combination of Federal and Levin funds for other FEA
- ➔ Restrict fundraising by federal candidates and officeholders on behalf of party committees

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B. Impact of the Bipartisan Campaign Reform Act of 2002 (BCRA) on Party Committees (11 CFR Part 300)

1. Prohibits national parties from raising or spending nonfederal funds;
2. Requires state/local parties to pay for certain Federal Election Activities (FEA) with 100% federal funds; may use combination of Federal and Levin funds for other FEA; and
3. Restricts fundraising by federal candidates and officeholders.



National Party Accounts

Post-BCRA, national parties cannot raise/spend nonfederal funds—federal accounts only

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- C. National Party Committees (11 CFR 300.10)**
BCRA prohibits national party committees, their agents, or any entity established, financed, maintained or controlled by a national party committee from raising, spending, soliciting, receiving or directing funds that are not subject to the limitations and prohibitions of the Federal Election Campaign Act (i.e., “soft money”).



State/Local Party Accounts

State/Local parties may have three different accounts—federal, nonfederal and Levin

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D. Three Types of Accounts for State/Local Party Committees (11 CFR 102.5(a))



State/Local Party Accounts

Federal Account:
Funds subject to limits, prohibitions and reporting requirements of Federal Election Campaign Act

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- 1. Federal Account – Required for Federal Activity**
Federal funds comply with the limitations, prohibitions and reporting requirements of the Federal Election Campaign Act (the Act).



State/Local Party Accounts

Nonfederal Account:
Funds governed by applicable state law

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- 2. Nonfederal Account – Optional Under Federal Law**
Nonfederal funds are governed by state law. Not reportable to the FEC.



State/Local Party Accounts

Levin Account (optional):
Funds comply with certain limits and prohibitions of
the Act and are also governed by state law

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3. **Levin Account – Optional Under Federal Law or Deposit in Nonfederal Account**
 - a) Levin funds comply with some of the limits and prohibitions of the Act and are also governed by state law.
 - b) Used to pay a portion of certain Federal Election Activities (FEA), which are specific activities defined by the Act. Discussed in detail in Part 2.



Three Types of Funds

With respect to federal elections . . .



Nonfederal Funds

Levin Funds

Federal Funds

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Federal Account Deposits

Must meet one of these conditions:

1. Designated or Solicited for Federal Account
2. Contributors Informed that Contribution is Subject to Federal Limits/Prohibitions

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II. Deposits into the Federal Account (11 CFR 102.5(a) and 300.30(b)(3))

A. Solicitation Notice

All funds deposited into the party's federal account must meet one of the following conditions:

1. **Designated or Solicited for the Federal Account**

Funds must be designated by the contributor or expressly solicited for use in connection with federal elections; or

2. Contributors Informed

Contributors must be informed that contribution is subject to federal limits and prohibitions, e.g., in the initial solicitation. 11 CFR 102.5(a)(2).



Federal Account Deposits

Review

“Best Efforts”

- ▶ Solicitations must include request for information
 - “Federal Law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year.”
- ▶ Follow-up request w/in 30 days of receipt if info not received

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B. Best Efforts (11 CFR 102.9(d) and 104.7)

1. When making solicitations, committees and their treasurers must make “best efforts” to obtain, maintain and report the name, address, occupation and employer for each contributor who gives more than \$200 per calendar year.
2. Initial solicitation must specifically request that information and inform contributors that the party committee is required by law to use its best efforts to collect and report it.
3. If contributor does not provide sufficient reporting information, committee must make one follow up request within 30 days of receipt.



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Contribution Limits

Review

For 2011-12 Elections	Candidate per election	National Party per year	State, District & Local Party per year	Any PAC per year	Special Limits
Individual	\$2,500	\$30,800	\$10,000 (combined)	\$5,000	\$117,000 biennial limit
National Party	\$5,000	No Limit	No Limit	\$5,000	\$43,100 per Senate campaign
State, District & Local Party	\$5,000 (combined)	No Limit	No Limit	\$5,000 (combined)	None
PAC: multicandidate	\$5,000	\$15,000	\$5,000 (combined)	\$5,000	None
PAC: not multicandidate	\$2,500	\$30,800	\$10,000 (combined)	\$5,000	None

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III. Fundraising for the Federal Account

A. Contribution Limitations (11 CFR 110.1 and 110.2)

1. To Each National Party Committee

- a) \$30,800/year from individuals and non-multicandidate PACs. (Note: Indexed for inflation in odd-numbered years)
- b) \$15,000/year from multicandidate PACs.



Limits to Parties

Review

For 2011-12 Elections	Candidate per election	National Party per year	State, District & Local Party per year	Any PAC per year	Special Limits
Individual	\$2,500	\$30,800	\$10,000 (combined)	\$5,000	\$117,000 biennial limit
National Party	\$5,000	No Limit	No Limit	\$5,000	\$43,100 per Senate campaign
State, District & Local Party	\$5,000 (combined)	No Limit	No Limit	\$5,000 (combined)	None
PAC: multicandidate	\$5,000	\$15,000	\$5,000 (combined)	\$5,000	None
PAC: not multicandidate	\$2,500	\$30,800	\$10,000 (combined)	\$5,000	None

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2. To All State and Local Party Committees Within a State

- a) \$10,000/year combined limit from individuals and non-multicandidate PACs.
- b) \$5,000/year combined limit from multicandidate PACs.
- c) State and (registered) local party committees are normally presumed to be affiliated. 11 CFR 110.3(b)(3). AOs 2005-02, 1999-04 and 1978-09.



Prohibited Contributions

Review

- Corporations
- Labor Organizations
- Federal Government Contractors
- Cash over \$100
- Anonymous over \$50
- Contributions in the Name of Another

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B. Prohibited Sources of Contributions (Federal Account) (11 CFR 110.4, 114.2(b) and 115.2)

1. Contributions prohibited to federal account from:

- Corporations
- Labor organizations
- Federal government contractors
- Contributions in name of another
- Cash over \$100
- Anonymous over \$50

2. See Advisory Opinion 2011-13 (DSCC) for guidance on avoiding prohibited sources while online fundraising.



Prohibited for All Elections

Review

- Foreign Nationals
- Federally Chartered Corporations
- National Banks

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- C. Prohibited Sources of Contributions for All Elections (Federal, State and Local) (11 CFR 110.20 and 114.2(a))**
1. Foreign nationals
 2. Federally chartered corporations
 3. National banks



Scenario

Reporting Contributions to the Federal Account

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Reporting Scenario #1

On September 1, 2012, the Freedom Party sends out a solicitation for contributions. The solicitation states that the funds received will be used in connection with both non-Federal and Federal elections. The committee receives a check from Dr. Cliff Huxtable in the amount of \$250 on September 7, 2012.

- 1. May the committee deposit the check in the federal account?**
- 2. How should the committee report the receipt of the check?**
- 3. When examining the check from Dr. Huxtable, what “red flags” should the committee consider when deciding if the check is permissible?**

Reporting Federal Receipts

Schedule A, Line 11(a)(i)

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
 11a 11b 11c 11d 11e 11f 11g

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)
 The Freedom Party Committee

Full Name (Last, First, Middle Initial)
 A. Dr. Cliff Huxtable

Mailing Address
 162 Seventh Avenue
 City: Brooklyn State: NY Zip Code: 11215

Date of Receipt
 09 / 07 / 2012

FEC ID number of contributing federal political committee: C

Amount of Each Receipt this Period
 \$250.00

Name of Employer: Self-Employed Occupation: Obstetrician

Receipt For:
 Primary General
 Other (specify) ▼

Aggregate Year-to-Date
 \$250.00

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Scenario Answers:

1. **May the committee deposit the check in the Federal account?**
Answer: Yes, because the solicitation stated that the funds would be used in connection with Federal elections. Alternatively, the solicitation could have stated that the contributions are subject to the limits and prohibitions of the Act. Either would satisfy 102.5(a)(2).

2. **How should the committee report the receipt of the check?**
Answer: The contribution is more than \$200 so it must be itemized on Schedule A for Line 11(a)(i).

3. **When examining the check from Dr. Huxtable, what “red flags” should the committee consider when deciding if the check is permissible?**
Answer: Is the check a personal check? Is the check drawn on the account of a corporation or LLP? Is the address on the check a foreign address?



Volunteer Exemptions

- ▶▶ Volunteer Services
- ▶▶ Personal Property
- ▶▶ Home Event – \$2,000/year
- ▶▶ Unreimbursed Travel – \$2,000/year

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IV. Contribution Exemption: Volunteer Services

A. Services of Individual Volunteer

No limit on services provided without compensation by any individual.
11 CFR 100.74.

B. Use of Real or Personal Property (e.g., home or personal computer)

1. Unlimited when Used for Volunteer Services (11 CFR 100.75)

2. Use of Home or Community Room for Event

- a) Individual may spend up to \$2,000/year for food, beverage and invitations in connection with event held at above locations. 11 CFR 100.77.
- b) Community room must be used on a regular basis by community for noncommercial purposes and must be available regardless of political affiliation.
- c) Nominal fee paid for use is not a contribution.

C. Unreimbursed Travel

Individual may spend up to \$2,000/year for his/her own unreimbursed travel on behalf of the party. 11 CFR 100.79.



Computer Services Exemptions

- ▶▶ Sending/Forwarding Emails
- ▶▶ Creating/Maintaining/Hosting Website
- ▶▶ Providing a Hyperlink to a Website
- ▶▶ Posting Comments to a Blog
- ▶▶ Using Work Computer for Online Political Activity

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- V. Contribution Exemption: Computer Services (11 CFR 100.94 and 100.155)**
- A. Permissible Uses**
Individuals may use a computer for a wide variety of activities in connection with federal elections, including:
1. Sending or forwarding unlimited e-mails on any political topic. Additionally, individuals do not have to identify themselves or state whether the messages have been authorized by any party or campaign committee.
 2. Creating, maintaining or hosting a web site.
 3. Providing a hyperlink to a web site.
 4. Posting comments to a blog, so long as they receive no compensation or, at most, a nominal fee. (Blogging also falls within certain exemptions for media activity.)
 5. Using a work computer for online political activity. This, however, is subject to an employer's rules for the personal use of computers and Internet access, and the employee must not be compensated for the activity. 11 CFR 100.94(b), 100.155(b) and 114.9(a) and (b).
- B. Not Exhaustive**
This list of permissible activities is not exhaustive and additional activities may be possible.
- C. Interaction with the Party**
The contribution and expenditure exemptions apply regardless of whether individuals act with the knowledge or consent of a political party committee.



Food/Beverage Exemption

- Charge must = actual cost to vendor
- Discount limited to \$2,000/year
- Vendor may be incorporated

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VI. Contribution Exemption: Food/Beverage Vendor Discounts

A. How Exemption Works

Food & beverage vendors may sell food or beverages at a discount, provided that:

1. Charge must at least equal actual cost to vendor.
2. Discount may not exceed \$2,000/year. 11 CFR 100.78 and 114.1(a)(2)(v).

B. Vendor May be Incorporated



Legal & Accounting Exemption

- Services cannot directly further election of candidate
- Person paying for the services is the employer
- Employer does not hire a replacement
- Party must report name of provider, date of service and value

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VII. Contribution Exemption: Free Legal and Accounting Services

A. Provided by Employers

An employer (e.g., law or accounting firm) may provide unlimited legal and accounting services as long as certain conditions are met.

B. Conditions for Exemption

1. Services may not directly further election of specific federal candidate.
2. Entity paying for services must be regular employer of individual performing the service.
3. Employer may not hire additional employees to free regular employees to perform the service.

C. Reporting

Party must report name of provider, date of service and value. Report the value of services received by using a memo entry on Schedule A of Form 3X. 11 CFR 100.85, 104.3(h) and 114.1(a)(2)(vi).



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Lobbyist Bundling

Disclosure Rule

If a lobbyist/registrant or lobbyist/registrant PAC forwards or is credited with raising two or more bundled contributions that total more than **\$16,700** during a **covered period**, the recipient committee must report that on FEC Form 3L.

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VIII. Disclosure of Contributions Bundled by Lobbyists/Registrants and Lobbyist/Registrant PACs (11 CFR 104.22)

A. Summary of Lobbyist Bundling Disclosure Rule

Reporting committees that receive two or more bundled contributions from a Lobbyist/Registrant or Lobbyist/Registrant PAC aggregating in excess of \$16,700 (amount is indexed for inflation annually) during a specific “covered period” are required to disclose activity on FEC Form 3L, “Report of Contributions Bundled by Lobbyists/Registrants and Lobbyist/Registrant PACs.”

B. Terms Defined

1. Which are “Reporting Committees” – 11 CFR 104.22(a)(1)

Political party committees, authorized committees of Federal candidates and leadership PACs.

2. Determining Whether a Person is Known to be a Lobbyist/Registrant or Lobbyist/Registrant PAC – 11 CFR 104.22(b)(2)

a) Lobbyist/Registrant – 11 CFR 104.22(a)(2)

At the time the contribution is forwarded or received determine if the person is:

- (1) Listed as current registrant under section 4(a) of the Lobbying Disclosure Act of 1995 (the LDA); or
- (2) An individual listed on a current registration filed under Section 4(b)(6) or current report filed under Section 5(b)(2)(C) of the LDA.

b) Lobbyist/Registrant PAC (11 CFR 104.22(a)(3))

At the time the contribution is forwarded or received determine if the committee is:

- (1) Identified as a lobbyist/registrant PAC on its FEC Form 1 (Statement of Organization); or
- (2) Listed as a political committee established or controlled by a lobbyist or registrant on a report filed under Sec. 203(a) of HLOGA, amending the LDA. See also 11 CFR 104.22(a)(4).

c) Consult the websites maintained by:

- (1) **Clerk of the House:** <http://clerk.house.gov>
- (2) **Secretary of the Senate:**
http://www.senate.gov/pagelayout/legislative/g_three_sections_with_teasers/lobbyingdisc.htm
- (3) **FEC:** <http://www.fec.gov>.

d) Proof of Calculated Search

Computer printout or screen capture showing absence of person’s name on the Senate, House or FEC websites may be used to demonstrate reporting committee’s efforts

to determine if person in question is a lobbyist/registrant or lobbyist/registrant PAC. 11 CFR 104.22(b)(2)(ii).

3. **What is a “Bundled” Contribution? (11 CFR 104.22(a)(6))**
 - a) **Forwarded Contribution:** A contribution (monetary and in-kind) delivered or transmitted by physical or electronic means to a party committee by a lobbyist/registrant or a lobbyist/registrant PAC or person acting on their behalf; or
 - b) **Received and Credited Contribution:** A contribution (monetary and in-kind) received by a party committee from a contributor and credited by a party committee to a lobbyist/registrant or lobbyist/registrant PAC through records, designations, or other means of recognizing that money has been raised by the lobbyist/registrant or lobbyist/registrant PAC.
 - c) **What is NOT a “Bundled” Contribution:**
 - (1) Personal contributions made by individual lobbyist/registrants, or personal contributions made by the spouse of individual lobbyist/registrants; and
 - (2) Contributions made by a lobbyist/registrant PAC from PAC funds.
4. **What does it mean to “Track” or “Give Credit” for Contributions to Committee? (11 CFR 104.22(a)(6)(ii)(A))**
 - a) **Records**

Written evidence that the party committee attributes to a lobbyist/registrant or lobbyist/registrant PAC contributions raised by a lobbyist/registrant or lobbyist/registrant PAC and received by the campaign. Written evidence includes writings, charts, computer files, databases or other data compilations sorted in any medium from which information can be obtained.
 - b) **Designations or Other Means of Recognizing**

Benefits given by the committee to persons for raising a certain amount of contributions including, but not limited to:

 - (1) **Titles** assigned by the committee (e.g. “Gold Star Club”);
 - (2) **Tracking identifiers** assigned by the committee that are included on contributions or **contribution-**related materials for the purpose of maintaining information about the amounts of contributions the person raises (e.g., response cards, cover letters, website solicitation pages);
 - (3) **Access to Events** (includes offers or **attendance**) to committee events or activities; and
 - (4) **Mementos** given by the **committee** (e.g. photograph with the party chair; book autographed by a candidate).

5. **What is the Disclosure Threshold? (11 CFR 104.22(b)(1))**
- a) Campaign committee must disclose information about each Lobbyist/Registrant or Lobbyist/Registrant PAC that forwards, or is credited with raising, two or more bundled contributions aggregating **in excess of \$16,700** during a specific covered period.
 - b) Threshold indexed each year and calculated amount is rounded to the nearest \$100. 11 CFR 104.22(g).

C. Filing FEC Form 3L

1. Filing Schedule

- a) Party committees file are required to file their FEC 3L on the same filing schedule as the committee currently files its FEC Form 3X, (i.e., Quarterly filers are required to file Form 3L with each Quarterly report, if the 3L is triggered during the covered period; Monthly filers are required to file Form 3L with each Monthly report, if the 3L is triggered during that period).
- b) Committees that file FEC Form 3X on a monthly schedule may elect to file their FEC Form 3L on a quarterly basis. Committees must make this request in writing.

2. Covered Periods (11 CFR 104.22(a)(5))

a) Quarterly Filers

In an Election Year (e.g., 2012), the covered periods are:

- (1) Semi-annual Periods (Jan 1– June 30; July 1 – Dec. 31);
- (2) Calendar quarters ending 3/31, 6/30, 9/30 and 12/31; and
- (3) Applicable pre- and post-election reporting periods

In a Non-Election Year (e.g., 2013), the covered periods are:

- (1) Semi-annual Periods (January– June 30; July 1 – Dec. 31); and
- (2) Any applicable special election reporting periods

b) For Monthly Filers:

- (1) Semi-annual Periods (Jan 1 – June 30; July 1 – Dec. 31); and
- (2) Monthly Reporting Periods (reports filed 20th of each month, except January 31 year-end report).
- (3) Reporting committees that file FEC 3X reports on a monthly basis may elect to file the 3L reports on a quarterly rather than monthly basis. A reporting

committee that wishes to change its schedule must notify the Commission in writing. 11 CFR 104.22(a)(5)(iv). See AO 2009-22.

3. **What Information Is Disclosed on Form 3L?**
 - a) Itemization Requirements for Form 3L, Schedule A
 - (1) Name of each Lobbyist/Registrant or Lobbyist/Registrant PAC;
 - (2) Address of each Lobbyist/Registrant or Lobbyist/Registrant PAC.
 - (3) Employer of each Lobbyist/Registrant; and
 - (4) Aggregate amount of bundled contributions forwarded by, or received and credited to, each Lobbyist/Registrant or Lobbyist/Registrant PAC during the covered period.
 4. **Reporting “Earmarked” Contributions**
 - a) **“Earmarked” Contribution (11 CFR 110.6)**
 - (1) Contribution to a candidate committee which a contributor directs, either orally or in writing through an intermediary/conduit (individual, partnership, party, PAC, etc. that is NOT registered lobbyist).
 - (2) If party is intermediary/conduit, party provides transmittal report to recipient candidate committee AND includes information on contribution on its next regularly scheduled **FEC Form 3X**. 110.6(c)
 - (3) Regulations regarding earmarked contributions remain in effect.
- D. Does Your Committee Trigger Disclosure Under These Rules?**
To determine whether the party triggers disclosure, ask the following three questions:
1. Does the party receive forwarded contributions or credit fundraisers for contributions they raise?
 2. Does the party committee receive contributions forwarded by or give credit to persons and entities that qualify as Lobbyist/Registrants or Lobbyist/Registrant PACs?
 3. Does the amount forwarded by or credited to a Lobbyist/Registrant or Lobbyist/Registrant PAC exceed \$16,700 during the covered period?

If the answer to all three questions is “yes,” the committee must file FEC Form 3L.

E. Key Issues:

- **Determine whether the committee received bundled contributions.**
 - Does the party receive forwarded contributions or credit fundraisers for contributions they raise?
 - Does the party committee receive contributions forwarded by or give credit to persons and entities that qualify as Lobbyist/Registrants or Lobbyist/Registrant PACs?
 - Does the amount forwarded by or credited to a Lobbyist/Registrant or Lobbyist/Registrant PAC exceed \$16,700 during the covered period?

- **2012 Reporting for Form 3L**
 - Parties may be required to disclose bundled contributions if two or more contributions forwarded from Lobbyist or Lobbyist PAC aggregate in excess of the \$16,700 threshold (Note that this threshold amount may change in 2012) during the “covered period.”
 - Quarterly Filers
 - April Quarterly (January 1- March 31)
 - July Quarterly (April 1 – June 30)
 - October Quarterly (July 1 – September 30)
 - Pre-General (October 1 – 17)
 - Post-General (October 18 – November 26)
 - Year-End (November 27 – Dec. 31);
 - Semi-annual period January 1– June 30 (July Quarterly report)
 - Semi-annual period July 1 – Dec. 31 (January 31 Year-End report); and
 - Any applicable special election reporting periods.
 - Monthly Filers
 - Monthly Reporting Periods (reports filed 20th of each month)
OR Monthly Filers may opt to file Form 3L on a Quarterly basis (See Quarterly schedule above);
 - Pre-General (October 1 – 17)
 - Post-General (October 18 – November 26)
 - Year-End (November 27 – Dec. 31);
 - Semi-annual period January 1– June 30 (July Monthly report)
 - Semi-annual period July 1 – Dec. 31 (January 31 Year-End report)



Objectives

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Supporting Candidates

- ▶ **Contributions**
- ▶ Exempt Activities
- ▶ Coordinated Party Expenditures
- ▶ Independent Expenditures
- ▶ Federal Election Activities (FEA)

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Contribution Limits

2011-12 Cycle	House Candidate	Senate Candidate
National May Give:	\$5,000/election	\$5,000/election from National CCC plus \$43,100 from National/Senatorial
State and Registered Local May Give:	\$5,000/election (combined limit)	\$5,000/election (combined limit)
Unregistered Local May Give:	\$2,500/election; will trigger registration	\$2,500/election; will trigger registration

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IX. Contribution Limitations (11 CFR 110.1 and 110.2)

A. By National Party Committees

- 1. To Congressional Candidates** – Each may contribute \$5,000 per election, per candidate. 11 CFR 110.2(b).
- 2. To Senatorial Candidates**
 - a) National Committee plus Senatorial Campaign Committee together may contribute \$43,100/campaign. (Note: indexed for inflation.) 11 CFR 110.2(e).
 - b) Congressional Campaign Committee may contribute \$5,000/election. 11 CFR 110.2(b).

B. By State, District and Local Party Committees

- 1. To Congressional and Senatorial Candidates**
 - a) \$5,000 per election, if multicandidate. 11 CFR 110.2(b)
 - b) \$2,500 per election, if not multicandidate committee. 11 CFR 110.1(b).
 - c) Limit shared with all federally registered local party committees within the state. 11 CFR 110.3(b)(3).
- 2. Made by Unregistered Local Party Organizations**
 May contribute \$2,500/election (indexed for inflation), BUT
 - a) Permissible funds must be used.
 - b) Counts towards \$1,000/calendar year registration threshold. 11 CFR 100.5(c) and 110.1(b). See also AOs 2005-02 and 1999-04.



Scenario

Reporting Contributions to Federal Candidates

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Reporting Scenario #2-Reporting Contributions to Federal Candidates

Congressman Cliff Clavin was unsuccessful in his 2010 reelection campaign and lost his seat to local accountant Norm Peterson. Congressman Clavin's campaign has a significant amount of general election debt remaining and the Freedom Party would like to help the campaign pay it down.

Under what circumstances may the Freedom Party make a contribution to retire Congressman Clavin's general election debt? Are there any special reporting rules?



Contribution to Candidate

Contribution to Retire Candidate Debt

**SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS**

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
 21b 22 23 24 25 26
 27 28a 28b 28c 29 30b

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
The Freedom Party

Full Name (Last, First, Middle Initial)
Cliff Clavin in '10

A. Mailing Address
84 Beacon Street

City: **Boston** State: **MA** Zip Code: **02108**

Date of Disbursement
09 / 30 / 2012

Purpose of Disbursement
Cliff Clavin

Candidate Name
Cliff Clavin

Office Sought: House Senate President
 Disbursement For: Primary General Other (specify) **2010 Debt Retirement**

State: **MA** District: **0**

Category/Type: **011**

Amount of Each Disbursement this Period
\$2,000.00

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Scenario Answer:

Under what circumstances may the Freedom Party make a contribution to retire Congressman Clavin’s general election debt? Are there any special reporting rules?

Answer: The party may make the contribution if the committee has not already maxed out on its contribution limit to this candidate for the general election 2010. For contributions made to retire debt, be sure to designate the contribution(s) specifically for debt retirement for that particular election. Contributions to candidates are reported on Line 23 of FEC Form 3X.



Methods of Support

- Contributions
- **Exempt Activities**
- Coordinated Party Expenditures
- Independent Expenditures
- Federal Election Activities (FEA)

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Exempt Activities

Key Facts:

- Contribution limits do not apply
- Must use federally permissible funds
- Count toward \$5,000 Exempt Activity Registration Threshold

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X. Party Exempt Activities

A. Special Features of Party Exempt Activities

- 1. Volunteer-Intensive**
- 2. Unlimited**
Not subject to contribution or coordinated expenditure limits, provided criteria listed below are met.
- 3. Use Federal funds for portions allocable to federal candidates**
- 4. Subject to \$5,000 Registration Threshold (11 CFR 100.5(c))**
- 5. Disclaimer Required (11 CFR 110.11(e))**
 - a) Must state that party paid for communication.
 - b) Disclaimer does not need to state whether the communication is authorized by a candidate or any authorized committee.



Slate Cards

To be Exempt:

- Must name 3 or more candidates
- No general public political advertising (except direct mail)
- Content limited
 - Name of candidate
 - Office held/sought
 - Party affiliation

2012 FEC Information Division

B. Three Specific “Party Exempt Activities:”

- 1. Slate Card/Sample Ballot/Palm Card (11 CFR 100.80 and 100.140)**
 - a) Must name 3 or more candidates for any public office;
 - b) No general public political advertising, except direct mail (defined as commercial vendor or commercial lists); and
 - 1) Content restricted to identification of candidates, office currently held, office sought and party affiliation. Excess biographical information or information on candidate positions or statement of party philosophy fall outside of the exemption.

- 2) Photographs and computer graphics may be used.
See AO 2008-06 for more information.



Campaign Materials

To be Exempt:

- Only for general election nominees
- Distributed by volunteers
- No general public political advertising
- Paid for by local/state party committee
- Party may not use funds designated for a candidate
- May not use funds or materials provided by National committee for purchase of the materials

2012 FEC Information Division

- 2. Campaign Materials (11 CFR 100.87 and 100.147)**
(Includes pins, bumper stickers, brochures, yard signs, posters, newsletters and party tabloids)
- a) Activity may only be conducted for the general election on behalf of the party's nominees.
 - b) Party committee must use volunteers to distribute;
 - c) No public political advertising, no direct mail;
 - d) Payment for materials must be made by party committee. Any payment by state candidate committee to party for state candidate's share of materials is not a contribution to the party;
 - e) Payments may not be made from funds designated for a particular candidate; and
 - f) Payments may not be made from funds provided by National committee for purchase of the materials, nor can the National committee provide the materials.
 - g) In AO 2010-01, the Commission approved a state party committee's payment for and distribution by volunteers of exempt campaign materials on behalf of a state party's "presumptive nominees" before the primary election was held, but only after the date that the party is able to identify its presumptive nominee.



Presidential Voter Registration/GOTV

- To be Exempt:
 - Only Presidential and Vice Presidential candidates mentioned
 - Contribution results if other candidates are identified
 - No general public political advertising
 - Phone bank activity exempt if operated by volunteers
 - No payment with funds designated for a candidate or with funds donated by the National

2012 FEC Information Division

3. **Presidential Voter Registration and Get-Out-the-Vote Drives (11 CFR 100.89 and 100.149)**
 - a) In order to be exempt, only the Presidential and Vice-Presidential nominees may be specifically mentioned and targeted;
 - b) If the activity is also conducted on behalf of other specifically-identified candidates, must be in-kind contributions or coordinated expenditures;
 - c) Phone bank activities exempt if operated by volunteers;
 - d) No public political advertising, no direct mail;
 - e) Payments may not be made from funds designated for a particular candidate; and
 - f) Payments may not be made from funds donated by the National committee for voter registration and GOTV activities.



Paying for Exempt Activities

- Allocate Federal/Nonfederal funds only if activity mentions both Federal/Nonfederal candidates
- If Exempt Activity meets one or more definitions of FEA:
 - Still “Exempt” from Contribution/Expenditure
 - Must be Paid as FEA (100% Federal)

2012 FEC Information Division

4. Payment for Exempt Activities

a) Allocation of Exempt Activity

- (1) If conducted in conjunction with nonfederal activity, may allocate the costs of Exempt Activity between Federal and nonfederal funds. 11 CFR 106.7(d)(3).
- (2) May NOT allocate between Federal and nonfederal funds, any Exempt Activity that mentions ONLY Federal candidates. 11 CFR 106.7(e)(1).
- (3) **Example:** A slate card that lists only candidates for Federal office and does not list a candidate for non-Federal office.

b) Exempt Activity that is also FEA (11 CFR 100.24(b)(3) and 300.33(a)(1) and (2))

- (1) If Exempt Activity also meets one of the definitions of FEA, such activity is still exempt from the definition of “contribution” and “expenditure” (i.e., activity is unlimited). However, the activity must be paid for as FEA, i.e. with Federal funds. 11 CFR 100.24(b)(3) and 300.33(a)(1) and (2).
- (2) **Example:** A Presidential Get-Out-the-Vote Drive phone bank may qualify as Exempt Activity under 100.89 and 100.149. However, such a phone bank may also qualify as a “public communication that PASOs a Federal candidate,” which is Type 3 FEA. Though Exempt Activity may be allocated between Federal and nonfederal funds, this

activity also qualifies as Type 3 FEA, which is not allocable; must use 100% Federal funds.



Supporting Candidates

- ▶ Contributions
- ▶ Exempt Activities
- ▶ **Coordinated Party Expenditures**
- ▶ Independent Expenditures
- ▶ Federal Election Activities (FEA)

2012 FEC Information Division



Coordinated Party Expenditures

- Funds spent by party
- Made for general election of party's candidate
- Separate limits apply; May designate limit to other party committee
- Party reports; disclaimer required
- Also known as 441a(d) expenditures

2012 FEC Information Division

XI. Coordinated Party Expenditures (11 CFR 109.32 through 109.37)

Expenditures made by a party committee on behalf of its nominee in the general election. Committees have a “coordinated party expenditure” limit (calculated each election cycle) that is *separate* from its contribution limit to the candidate. Expenditures may range from paying bills for candidate to paying for “coordinated communications” on behalf of the candidate. (Note: Coordinated party expenditures are also known as “441a(d) expenditures,” which refers to the section of the statute where they appear.)

A. In Connection With General Election of Party’s Candidates

May be made *before* candidate has been nominated (11 CFR 109.34).



Coordinated Party Expenditures

- National Party Committee
 - House, Senate, Presidential candidates
- State Party Committee
 - House, Senate candidates
 - Presidential candidates (only if designated)
- Local/District Party Committee
 - No Coordinated Party Spending authority unless designated

2012 FEC Information Division

B. Who Makes Them (11 CFR 109.32(b)):

- 1. National Party Committee**
For House, Senate and Presidential candidates.
- 2. State Party Committee**
 - a) For House and Senate candidates.
 - b) For Presidential candidates, but *only* if designated, in advance and in writing, by the national committee.
- 3. Local or District Party Committee**
 - a) For House, Senate, Presidential candidates but
 - b) *Only if designated, in advance and in writing*, by National or state committee, as appropriate.



Coordinated Party Expenditures

Designation:

- In advance
- In writing
- Keep written designation for 3 years
- Monitor and disclose expenditures made by designated agents

2012 FEC Information Division

C. Designation

1. Committee may designate other party committees to spend **against** its limit.
2. Must be done in advance and in writing.
3. Must be received by the **designee** committee *before* any expenditure is made.
4. Retain, for recordkeeping **purposes**, copy of written designation for three years.

D. Payment

Party committee makes actual payment to the vendor—funds may not be given directly to the candidate's campaign committee.



Coordinated Party Expenditures

- House Candidates
 - \$10,000 plus COLA, or the Senate limit for states with only one representative
- Senate Candidates
 - \$20,000 plus COLA, or the State's VAP x \$.02 plus COLA
- Presidential Candidates
 - National VAP x \$.02 plus COLA

2012 FEC Information Division

- E. Limits (based on formula):**
1. **Separate Limits for State and National parties.**
 2. **For Congressional Candidates**
\$10,000 plus COLA (2012 limit: \$45,600 [\$91,200 for states with one district]).
 3. **For Senate Candidates**
\$20,000 plus COLA or the state VAP x \$.02 plus COLA, whichever is greater (e.g., 2012 state limits range from \$91,200 to \$2,593,100 in California (\$1,374,400 in Florida).
 4. **For Presidential Candidate**
National VAP x \$.02 plus COLA (e.g., 2012 limit = \$21,684,200).
- F. Reporting**
1. Reported by party on Schedule F.
 2. Candidate committee does not report the benefit of the activity.
- G. Use only Federal Funds**
Party must make expenditure from its federal account.



Coordinated Party Expenditures

Review

Disclaimer on Public Communications:

- Name of the party committee paying for the communication
- If communication made with the candidate's approval and after the nomination, then authorization statement required
- Subject to disclaimer rules for printed communications

2012 FEC Information Division

H. Disclaimer Requirements for Public Communications (11 CFR 110.11(d))

1. Disclaimer Must State:

- a) Name of party committee that paid for communication; and
- b) If made with the approval of the candidate, that the communication is authorized by the candidate or his/her committee (not necessary if communication disseminated before candidate's nomination; see 11 CFR 110.11(d)(1)(ii)).

2. Not Subject to "Stand by Your Ad" Rules Requiring Voiceover/Appearance by Candidate.

3. Subject to Rules for Printed Communications.



Coordination

- If communication is coordinated, considered in-kind or 441a(d) expenditure, subject to limits.
- Coordination three-part test:
 - ✓ Source of payment;
 - ✓ “Content standard” re: timing and subject matter of communication; AND
 - ✓ “Conduct standard” re: interaction between campaign and payee.

2012 FEC Information Division

I. Three-Prong Coordinated Communication Test (11 CFR 109.37 and 109.21(d)):

1. Three-Pronged Test Overview:

- Source of payment;
- Content is republication of candidate material, express advocacy or communication made that refers to a clearly identified candidate; and
- Conduct involves candidate’s agents in request or suggestion, material involvement, or substantial discussion, or involves republication of candidate material, use of common vendor, or use of prior employee or contractor;



Three-Part Coordination Test

- ▼ Source of payment
 - Party committee

2012 FEC Information Division

2. Source of Payment

The source of payment for a Coordinated Party Expenditure is the political party committee making the expenditure.



Three-Part Coordination Test

- ▼ Content Standard
 - Meeting one of these:
 - Electioneering Communication
 - Republication of Campaign Materials
 - Express Advocacy
 - Public Communication within Certain Time Frame before Election
 - NEW: Communication that is “Functional Equivalent” of Express Advocacy”

2012 FEC Information Division

3. **“Content Standard”**

Will satisfy test if communication meets any one of these standards:

- a) **“Electioneering Communication”**
- b) **Public Communication that Republishes, Disseminates or Distributes Candidate-Prepared Campaign Materials;**
- c) **Public Communication with Express Advocacy**
Public Communication Within Certain Time Frame Before Election (No express advocacy required)
 - (1) Refers to clearly identified candidate;
 - (2) Is directed to voters in the jurisdiction of the clearly identified candidate or to voters in a jurisdiction where one or more candidates of the political party appear on the ballot.



Time Frames

- 1. House or Senate candidates = 90 days or fewer before a primary or general election
- 2. Presidential candidates = entire period from 120 days before the primary through date of general election.
- 3. Political parties = If during a presidential election cycle, 120 days before the primary through the general election; if during a midterm cycle, 90 days before the primary or the general.

2012 FEC Information Division

(3) Time Frames

- Senate and House candidates = 90 days before a primary or general election.
- Political parties = 120 days before a primary or general election.



Revised Rules

Approved by the Commission in 2010:

- Add new standard to content prong for public communications that are “functional equivalent of express advocacy”
- Further explain 120-day time period for common vendor and former employee tests

2012 FEC Information Division

d) Public Communications that are the Functional Equivalent of Express Advocacy.

As of 2010, 11 CFR 109.21(c)(5) specifies that a communication is the functional equivalent of express advocacy if it is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified Federal candidate.

- (1) Applies without regard to the timing of the communication or the targeted audience.
- (2) Applies outside the pre-election period used for other public communications.
- (3) Effective December 1, 2010. See 75 FR 55947.



Three-Part Coordination Test

- ▼ **Conduct Standard**
 - Request or Suggestion
 - Material Involvement
 - Substantial Discussion
 - Common Vendor
 - Former Employee/Independent Contractor

2012 FEC Information Division

4. **“Conduct Standard”**

Will satisfy test if communication meets any one of these five standards:

 - a) **Request or Suggestion (11 CFR 109.21(d)(1))**
 - b) **Material Involvement (11 CFR 109.21(d)(2))**
 - c) **Substantial Discussion (11 CFR 109.21(d)(3))**
 - d) **Employment of Common Vendor During Previous 120 days (11 CFR 109.21(d)(4))**
 - e) **Use of Former Employee/Independent Contractor During Previous 120 days (11 CFR 109.21(d)(5)).**

- J. **Commission Rulemaking (2010)**

Final rules in response to *Shays III* litigation at 75 FR 55947 (September 15, 2010). Effective December 1, 2010):

 - Added the “functional equivalent” standard to the content prong (see above)
 - Did not alter conduct prong; however, the explanation and justification for the rules further explains why the Commission retained the 120-day time period for the common vendor and former employee tests.



Safe Harbors

- Safe harbor for endorsements and solicitations by Federal candidates
- 120-day temporal limit for common vendor and former employee conduct standards
- Safe harbor for establishment and use of “firewall”
- Safe harbor for use of publicly available information
- NEW: Safe harbor for certain commercial transactions

2012 FEC Information Division

K. Safe Harbor for Endorsements and Solicitations by Federal Candidates

1. A public communication in which a Federal candidate endorses another candidate for Federal or non-Federal office is not coordinated unless the public communication PASOs the endorsing candidate (or another candidate who seeks election to the same office). 11 CFR 109.21(g)(1).
2. A public communication in which a Federal candidate solicits funds for another candidate for Federal or non-Federal office, a political committee, or a charitable organization organized under 26 USC §501(c) is not coordinated unless the communication PASOs the soliciting candidate. 11 CFR 109.21(g)(2).
3. **120-day temporal limit for common vendor and former employee conduct standards.**
4. **Safe harbor for establishment and use of firewall.**
Written firewall policy required. Must be designed and implemented to prohibit flow of information between:
 - Employees or consultants providing services for person paying for communication;
 - Vendors currently/previously providing services to candidate/authorized committee, candidate’s opponent/authorized committee or party. 11 CFR 109.23(h).
5. **Safe harbor for use of publicly available information**

6. **NEW: Safe harbor for certain commercial transactions**
Federal candidate may appear in public communications in his/her capacity as a business owner or operator that existed prior to the candidacy provided that:
- The medium, timing, content and geographic distribution of the public communication(s) are consistent with public communications made prior to the candidacy; and
 - The public communication does not promote, attack, support or oppose that candidate or another candidate seeking the same office. 11 CFR 109.21(i).



Supporting Candidates

- ▶ Contributions
- ▶ Exempt Activities
- ▶ Coordinated Party Expenditures
- ▶ **Independent Expenditures**
- ▶ Federal Election Activities (FEA)

2012 FEC Information Division



Independent Expenditure

Expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate, that is not made in cooperation, consultation, or concert with, or at the request or suggestion of a candidate or his/her agents.

2012 FEC Information Division

XII. Independent Expenditures (11 CFR 100.16)

A. Definition

Expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate, that is not made in cooperation, consultation, or concert with, or at the request or suggestion of a candidate, or his/her agents (i.e., is not coordinated). 11 CFR 100.16.

B. Unlimited

No limitation on amounts expended.

C. Not an Independent Expenditure if “Coordinated Party Expenditure.”



Disclaimer and Reporting

- Name of party committee paying for it
- Not authorized by any candidate or candidate's committee
- Printed communications subject to disclaimer rules
- Report on Schedule E

2012 FEC Information Division

D. Disclaimer

1. **Must State:**

- a) Name of party committee that paid for expenditure; and
- b) That the expenditure is not authorized by any candidate or candidate's committee. 11 CFR 110.11(d)(3).

2. **Printed Communications**

Subject to specific rules at 11 CFR 110.11(c)(1) and (2) and special rules for radio and TV ads at 11 CFR 110.11(c)(4).

E. Reporting

1. **Reported by party committee on Schedule E.**

2. **Special notices required if party spends more than \$10,000 in any calendar year or more than \$1,000 in last twenty days before the election.**



Scenario

Reporting Coordinated Party Expenditures

2012 FEC Information Division

Reporting Scenario #3: Coordinated Party Expenditures

Background: On October 14, 2012—23 days before the November 6 general election—the Freedom Party runs \$6,000 in advertisements in *The Milwaukee Journal-Sentinel* supporting the party's 4th district House candidate, Arthur Fonzarelli.

- 1. How would you report these three ads if you had coordinated them and treated them as Coordinated Party Expenditures (441a(d) expenditures) assuming payment was made on October 14?**



Coordinated Expenditures

Reporting 441(a)(d) Expenditures

SCHEDULE F (FEC Form 3X) ITEMIZED COORDINATED PARTY EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2 U.S.C. §441a(d)) (To be used only by Political Committees in the General Election)		PAGE 1 OF 1 <small>FOR LINE 25 OF FORM 3X</small>
NAME OF COMMITTEE (In Full) The Freedom Party Committee		
Has your committee been designated to make coordinated expenditures by a political party committee? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If YES, name the designating committee:		Full Name of Subordinate Committee Mailing Address City State ZIP Code
Full Name (Last, First, Middle Initial) of Each Payee The Milwaukee Journal Sentinel		Purpose of Expenditure Newspaper Ad Category/Type
Mailing Address 135 Morrissey Blvd.		Date 10 14 2012
City State ZIP Code Milwaukee WI 53201		Amount \$6,000.00
Name of Federal Candidate Supported Arthur Fonzarelli		Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> Presidential State: WI District: 4
Aggregate General Election Expenditure for this Candidate ▶ \$6,000.00		

2012 FEC Information Division

Scenario Answer:

1. **How would you report these three ads if you had coordinated them and treated them as Coordinated Party Expenditures (441a(d) expenditures) assuming payment was made on October 14?**

Answer: Coordinated party expenditures are reported on Schedule F.

- **Coordinated Party Expenditures**
 - Itemize on Schedule F
 - If contracted but not paid, itemize as memo entry
 - Reference date of dissemination in purpose box when reporting payment on subsequent report.



Scenario

Reporting Independent Expenditures

2012 FEC Information Division

Reporting Scenario #4: Independent Expenditures

What if the party ran the same advertisements but did NOT coordinate with the candidate?

Background: On October 14, 2012—23 days before the November 6 general election—the Freedom Party Committee runs \$6,000 in ads in *The Milwaukee Journal Sentinel* newspaper supporting its 4th district House candidate, Arthur Fonzarelli. Two days later—on October 16 - the party runs \$4,200 more in ads in the *Journal* attacking Fonzarelli's opponent, Pinky Tuscadero. Then, just two days before the election- November 4- the party runs a \$7,500 radio ad on WCMY-FM supporting Fonzarelli. Payment for these ads occurred on November 26, 2012.

- 1. How would you classify these ads for purposes of the law?**
- 2. If they are independent expenditures, how would you report them?**
- 3. How would you report these three ads if you had not coordinated them, assuming payment was again made on November 26?**

Scenario Answers:

1. How would you classify these ads for purposes of the law?

Answer: If not coordinated, then they may possibly be independent expenditures or public communications (FEA).



Independent Expenditures

- Date made = date disseminated
- 48-Hour Reports
Required for IEs aggregating \geq \$10,000 made 20 days or more before an election
- 24-Hour Reports
Required for IEs aggregating \geq \$1,000 made $<$ 20 days but more than 24 hours before an election.
- Disclose again on next regular report

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NEW: Interpretive Rule on When Certain Independent Expenditures are “Publicly Disseminated” for Reporting Purposes (76 FR 61254 (10/4/11))

- Applies to yard signs, mini-billboards, handbills, t-shirts, hats, buttons and similar communications.
- Reasonable dates that may be treated as date of public dissemination include, but are not limited to:
 1. The date filer receives delivery of communication;
 2. The date filer distributes communication to its members or employees for later public dissemination;
 3. The date a filer distributes the communications to its affiliate or member organizations for later public dissemination;
 4. The date as of which the filer authorizes its members or employees to display the communication; or
 5. The date of actual public dissemination, if that date is known to the filer.
- May NOT choose a date later than actual dissemination or a date after the election to which IE pertains.

2. If they are independent expenditures, how would you report them?

Answer: If not coordinated and if they contained express advocacy, yes, they would be considered independent expenditures. An independent expenditure is an expenditure for a communication that expressly advocates the election/defeat of a clearly identified candidate and that is not coordinated with a candidate or a political party.

- An independent expenditure is considered made when it is publicly distributed or otherwise publicly disseminated.
- Committees must file a **48-hour report** for independent expenditures that aggregate \$10,000 or more, per election, per office, anytime during a calendar year up to and including the 20th day before an election.
- Committees must file a 24-hour report for independent expenditures that aggregate \$1,000 or more, per election, per office, and is made less than 20 days but more than 24 hours before the day of an election, the committee must file a 24-hour report on Schedule E disclosing the independent expenditure.
- Must disclose again, on Schedule E, on the next regular FEC report.
- Committees must report both the date of dissemination and the date of payment (and debt, if these take place during different reporting periods). Let's look at some different examples using our scenario.

48-Hour IE Notice

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 1 OF 1
 FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): Freedom Party Committee
 FEC IDENTIFICATION NUMBER: C 00000004

Check 24-hour notice 48-hour notice

Full Name (Last, First, Middle Initial) of Payee: Milwaukee Journal
 Date: 10 / 14 / 2012

Mailing Address: 135 Morrissey Blvd.
 Amount: \$6,000.00

City: Milwaukee State: WI Zip Code: 53201

Purpose of Expenditure: Newspaper Ad
 Category/Type: []
 Office Sought: House State: WI
 Senate District: 4
 President

Name of Federal Candidate Supported or Opposed by Expenditure: Arthur Fonzarelli
 Check One: Support Oppose

Calendar Year-To-Date Per Election for Office Sought: \$6,000.00
 Disbursement For: Primary General
 Other (specify) _____

2012 FEC Information Division

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

NAME OF COMMITTEE (In Full): Freedom Party Committee
 FEC IDENTIFICATION NUMBER: C 00000004

Check if 24-hour notice 48-hour notice

Full Name (Last, First, Middle Initial) of Payee: Milwaukee Journal
 Date: 10 / 16 / 2012

Mailing Address: 135 Morrissey Blvd.
 Amount: \$4,200.00

City: Milwaukee State: WI Zip Code: 53201

Purpose of Expenditure: Newspaper Ad
 Category/Type: []
 Office Sought: House State: WI
 Senate District: 4
 President

Name of Federal Candidate Supported or Opposed by Expenditure: Pinky Tuscadero
 Check One: Support Oppose

Calendar Year-To-Date Per Election for Office Sought: \$10,200.00
 Disbursement For: Primary General
 Other (specify)

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3. How would you report these three ads if you had not coordinated them, assuming payment was again made on November 26?

October 14 - \$6,000 newspaper ad
 October 16 - \$4,200 newspaper ad
 November 4 - \$7,500 radio ad

Answer: The first two ads aggregated more than \$10,000 for the calendar year for the Wisconsin House general election and were made more than 20 days before election. This triggers the requirement to file 48-hour reports on a stand-alone Schedule E *solely to indicate the date the communications were disseminated*. In this case, the requirement was triggered on October 16, so the 48-Hour reports are due October 18.

4. Now, while we have fulfilled the notice requirement for these two communications, where else must we disclose the dissemination date of these ads?

5. So the money has not actually left our account. What else do we have to disclose in addition to the date of the independent expenditures, as disclosed on Schedule E?

4. Now, while we have fulfilled the notice requirement for these two communications, where else must we disclose the dissemination date of these ads?

Answer: On our next scheduled report (the 12 Day Pre-General in this example, covering October 1-17, 2012, and due October 25, 2012), using Schedule E again. They are itemized as memo entries on Schedule E, however, because we will not have paid the newspaper by the time the report is due.

Schedule E (Pre-General)

**SCHEDULE E (FEC Form 3X)
 ITEMIZED INDEPENDENT EXPENDITURES**

PAGE 1 OF 1
 FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): Freedom Party Committee
 FEC IDENTIFICATION NUMBER: C 00000004

Check if 24-hour notice 48-hour notice

Full Name (Last, First, Middle Initial) of Payee: Milwaukee Journal
 Date: 10 / 14 / 2012

Mailing Address: 135 Morrissey Blvd.
 Amount: MEMO

City: Milwaukee State: WI Zip Code: 53201
 Amount: \$6,000.00

Purpose of Expenditure: Newspaper Ad
 Category/Type:

Office Sought: House State: WI
 Senate District: 4
 President

Name of Federal Candidate Supported or Opposed by Expenditure: Arthur Fonzarelli
 Check One: Support Oppose

Calendar Year-To-Date Per Election for Office Sought: \$6,000.00
 Disbursement For: Primary General
 Other (specify) _____

2012 FEC Information Division



Schedule E – Pre-General

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 1 OF 1
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full) Freedom Party Committee		FEC IDENTIFICATION NUMBER C 00000004	
Check if <input type="checkbox"/> 24-hour notice <input type="checkbox"/> 48-hour notice			
Full Name (Last, First, Middle Initial) of Payee Milwaukee Journal		Date 10 / 16 / 2012	
Mailing Address 135 Morrissey Blvd.		Amount MEMO \$4,200.00	
City Milwaukee	State WI	Zip Code 53201	
Purpose of Expenditure Newspaper Ad	Category/Type	Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President	State: WI District: 4
Name of Federal Candidate Supported or Opposed by Expenditure: Pinky Tuscadero		Check One: <input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought \$10,200.00		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify) _____	

2012 FEC Information Division

5. So the money has not actually left our account. What else do we have to disclose in addition to the date of the independent expenditures, as disclosed on Schedule E?

Answer: Show a debt owed to the newspaper on Schedule D, supporting Line 10, on the same report (12 Day Pre-General) and on subsequent reports until it is repaid.



IE – Report Debt Owed

Other Reporting - Debt

SCHEDULE D (FEC Form 3X)		PAGE 1 OF 1
DEBTS AND OBLIGATIONS		(Use separate schedule(s) for each numbered line)
Excluding Loans		FOR LINE NUMBER: (check only one) <input type="checkbox"/> 9 <input checked="" type="checkbox"/> 10
NAME OF COMMITTEE (In Full) Freedom Party Committee		
A. Full Name (Last, First, Middle Initial) of Debtor or Creditor Milwaukee Journal	Nature of Debt (Purpose): Newspaper Ads/IEs 10/14/12 and 10/16/12	
Mailing Address 135 Morrissey Blvd.		
City State Zip Code Milwaukee WI 53201		
Outstanding Balance Beginning This Period \$0.00		
Amount Incurred This Period \$10,200.00	Payment This Period \$0.00	Outstanding Balance at Close of This Period \$10,200.00

2012 FEC Information Division

6. **What will our reporting obligations be after payment is made on November 26?**

7. **Do we have anything left to report?**

6. What will our reporting obligations be after payment is made on November 26?

Answer: Disclose the payments on Schedules E in the next scheduled report (30-Day Post General, covering October 18 – November 26, 2012, and due December 6, 2012).

Schedule E (Post-General)

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 1 OF 1
 FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full): Freedom Party Committee
 Check if 24-hour notice 48-hour notice
 FEC IDENTIFICATION NUMBER: C 00000004

Full Name (Last, First, Middle Initial) of Payee: Milwaukee Journal
 Date: 11 / 26 / 2012
 Mailing Address: 135 Morrissey Blvd.
 Amount: \$6,000.00
 City: Milwaukee State: WI Zip Code: 53201

Purpose of Expenditure: Newspaper Ad – 10/14/12
 Category/Type:
 Name of Federal Candidate Supported or Opposed by Expenditure: Arthur Fonzarelli
 Office Sought: House State: WI
 Senate District: 4
 President
 Check One: Support Oppose

Calendar Year-To-Date Per Election for Office Sought: \$17,700.00
 Disbursement For: Primary General
 Other (specify) _____

2012 FEC Information Division



Schedule E (Post-General)

**SCHEDULE E (FEC Form 3X)
 ITEMIZED INDEPENDENT EXPENDITURES**

PAGE 1 OF 1
 FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full) Freedom Party Committee		FEC IDENTIFICATION NUMBER C 00000004	
Check if <input type="checkbox"/> 24-hour notice <input type="checkbox"/> 48-hour notice			
Full Name (Last, First, Middle Initial) of Payee Milwaukee Journal		Date 11 / 26 / 2012	
Mailing Address 135 Morrissey Blvd.		Amount \$4,200.00	
City Milwaukee	State WI	Zip Code 53201	
Purpose of Expenditure Newspaper Ad – 10/16/12	Category/Type	Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President	State: WI District: 4
Name of Federal Candidate Supported or Opposed by Expenditure: Pinky Tuscadero		Check One: <input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought 17,700.00		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)	

2012 FEC Information Division

7. Do we have anything left to report?

Answer: Yes, report the payment of the debt on Schedule D.



IE –Debt Payment

Other Reporting - Debt

**SCHEDULE D (FEC Form 3X)
 DEBTS AND OBLIGATIONS
 Excluding Loans**

PAGE 1 OF 1
 (Use separate schedule(s) for each numbered line)
 FOR LINE NUMBER: (check only one) 9 10

NAME OF COMMITTEE (In Full) Freedom Party Committee	
A. Full Name (Last, First, Middle Initial) of Debtor or Creditor Milwaukee Journal	Nature of Debt (Purpose): Newspaper Ads/IEs 10/14/12 and 10/16/12
Mailing Address 135 Morrissey Blvd.	
City State Zip Code Milwaukee WI 53201	
Outstanding Balance Beginning This Period \$10,200.00	
Amount Incurred This Period \$0.00	Payment This Period \$10,200.00
	Outstanding Balance at Close of This Period \$0.00

2012 FEC Information Division

8. Now, what about our third ad - the radio ad? What special reporting, if any, did it trigger?

Review: On November 4, two days before the November 6 special general election, the party runs a \$7,500 radio ad on WCMY-FM supporting Fonzarelli.

8. Now, what about our third ad - the radio ad? What special reporting, if any, did it trigger?

Answer: The third expenditure aggregates more than \$1,000 for the Wisconsin District 4 general election and was made in the last 20 days of the election; therefore, it has triggered the requirement to file a 24-hour report on Schedule E, *again just a notice to report the date of dissemination*. Since the requirement was triggered on November 4, the 24-Hour report is due November 5.

24-Hour IE Notice

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 1 OF 1
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full)
Freedom Party Committee

FEC IDENTIFICATION NUMBER
C 00000004

Check 24-hour notice 48-hour notice

Full Name (Last, First, Middle Initial) of Payee
WBQW-FM

Date
11 / 04 / 2012

Mailing Address
12100 West Howard Avenue

Amount
\$7,500.00

City State Zip Code
Greenfield WI 53228

Purpose of Expenditure
Radio Ad

Category/Type

Office Sought: House State: WI
 Senate District: 4
 President

Name of Federal Candidate Supported or Opposed by Expenditure:
Arthur Fonzarelli

Check One: Support Oppose

Calendar Year-To-Date Per Election for Office Sought
\$17,700.00

Disbursement For: Primary General
 Other (specify)

2012 FEC Information Division

9. Now, we have again only reported the date of dissemination but we haven't made the payment. How do we report the payment? Is there any debt to report?

9. Now, we have again only reported the date of dissemination but we haven't made the payment. How do we report the payment? Is there any debt to report?

Answer: We report the payment on our next scheduled report, the 30-Day Post General (10/18/12 – 11/26/12), on Schedule E. There is no debt to report because we paid for the ad within the same reporting period in which the ad was run.

The image shows a screenshot of the Schedule E Post General form (FEC Form 3X) for itemized independent expenditures. The form is titled "Schedule E Post General" and includes the Federal Election Commission logo. The form details the following information:

- NAME OF COMMITTEE (In Full):** Freedom Party Committee
- FEC IDENTIFICATION NUMBER:** C 00000004
- Check if:** 24-hour notice 48-hour notice
- Full Name (Last, First, Middle Initial) of Payee:** WBQW-FM
- Date:** 11/26/2012
- Mailing Address:** 12100 West Howard Avenue
- City:** Greenfield **State:** WI **Zip Code:** 53228
- Amount:** \$7,500.00
- Purpose of Expenditure:** Radio Ad – 11/4/12
- Category/Type:** [Blank]
- Office Sought:** House Senate President
- State:** WI **District:** 4
- Name of Federal Candidate Supported or Opposed by Expenditure:** Arthur Fonzarelli
- Check One:** Support Oppose
- Calendar Year-To-Date Per Election for Office Sought:** 17,700.00
- Disbursement For:** Primary General Other (specify)

2012 FEC Information Division

Tricky Issues: Reporting Last-Minute Advertising

- **Debts**
 - Debts include ads that are contracted for but not paid for in that reporting period.
 - When payment for ad is made in subsequent reporting period, report payment on Schedule E or F, and include date of dissemination in purpose field.
 - Update Schedule D with payment; cross-reference Schedule E or F.
- **24-Hour Reporting**
 - Must file a **24-hour report** for independent expenditures aggregating (per calendar year, per election, per office) \$1,000 or more made less than 20 days but more than 24 hours before the day of an election.
 - Aggregation is done on a per calendar year, per election, per office sought (race) basis.
 - Use Schedule E on Form 3X – check “24-hour” box.

- Must be received by FEC within 24 hours after the independent expenditure is publicly distributed or otherwise publicly disseminated.
- Must be certified (signed) by treasurer (e-filers should type the treasurer's name following the certification on the notice).
- For paper filers, can use overnight delivery, hand-delivery or fax to 202-219-0174 (certified or registered mail date will not be considered filed date for these).
- Last-minute independent expenditures must be disclosed again on Schedule E of the next scheduled report that the committee files.
- A 24-Hour Notice is required each time an additional \$1,000 is aggregated in independent expenditures.
- The 24-Hour Notice time frames for each state are located on our web site at http://www.fec.gov/info/report_dates.shtml#ie.
- **48-Hour Reporting**
 - In addition, must file a **48-hour report** for independent expenditures that aggregate \$10,000 or more, anytime during a calendar year up to and including the 20th day before an election.
 - Use Schedule E on Form 3X – check “48-hour” box.
 - Must be received by FEC within 48 hours after expenditure is publicly distributed or otherwise publicly disseminated.
 - Must be certified (signed) by treasurer (e-filers should type the treasurer's name following the certification on the notice).
 - For paper filers, can use overnight delivery, hand-delivery or fax to 202-219-0174 (certified or registered mail date will not be considered filed date for these).
 - Last-minute independent expenditures must be disclosed again on Schedule E of the next scheduled report that the committee files.
 - Aggregation is done on a per calendar year, per election, per office sought (race) basis.
 - A 48-Hour Notice is required each time an additional \$10,000 is aggregated in independent expenditures.



Supporting Candidates

- ▶ Contributions
- ▶ Exempt Activities
- ▶ Coordinated Party Expenditures
- ▶ Independent Expenditures
- ▶ Federal Election Activities (FEA)

2012 FEC Information Division

Next Workshop:

Party Operations Part 2



2:00 – 3:30 p.m.