

RECORD

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REPORTS**REPORTS DUE IN JULY**

During July, all registered political committees are required to file semiannual, quarterly or monthly reports, depending on the type of committee they are. The following paragraphs explain the reporting schedule for the various categories of filers.

Semiannual Filers

The following committees must file a semiannual report by July 31, covering activity from the last report filed or the date of registration, whichever is later, through June 30, 1983:

- All committees authorized by candidates for Congress; and
- All committees **not** authorized by candidates (i.e., unauthorized committees) which have chosen to file on a semiannual (rather than a monthly) basis.

Note that committees active in the California and Illinois special elections may not have to file a semiannual report. (See below.)

Quarterly Filers

Committees authorized by Presidential candidates that have chosen to file on a quarterly (rather than a monthly) basis are required to file a quarterly report by July 15. The report should cover all activity from the closing date of the last report filed or from the date of registration, whichever is later, through June 30, 1982.

Monthly Filers

Unauthorized committees and authorized Presidential committees which have chosen to file on a monthly basis must file their July monthly report by July 20. The report should cover all activity from the closing date of the last report filed or from the date of registration, whichever is later, through June 30.

Change in Filing Frequency

Unauthorized committees that plan to change their reporting schedule (from monthly to quarterly or from quarterly to monthly) must notify the Commission of their intention. The committee may notify the Commission by submitting a letter with the next report due under the old reporting

schedule. A committee may not change its filing frequency more than once a year. 11 CFR 104.5 (c). The FEC requests that Presidential committees also inform the Commission in writing if they decide to change their reporting schedule.

Special Election Filers: California and Illinois

The semiannual reporting schedule has been modified for political committees (both candidate and noncandidate) active in the special elections held in California and Illinois. These committees should consult the special notices prepared by the Commission and the article in the June Record, page 1.

Forms and Information

Reporting forms and additional information have been sent to all registered committees, alerting them to their reporting requirements. Questions and requests for additional forms should be addressed to the Office of Public Communications, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463; or call 202/523-4068 or toll free 800/424-9530.

SPENDING LIMITS FOR PARTY COMMITTEES IN ILLINOIS SPECIAL ELECTION

National and state party committees may make limited, coordinated expenditures on behalf of their Congressional candidates in the Illinois special general election, which will be held on August 23, 1983. 2 U.S.C. §41a(d); 11 CFR 110.7. The national committee of a party may make expenditures of up to \$19,570 in support of its candidate. In addition, the state party committee, together with any subordinate party committees (e.g., county, district and local), may make combined coordinated expenditures that are subject to a **single** limit of \$19,570.

Special coordinated party expenditures count neither as contributions to a candidate nor as expenditures by the candidate or the candidate's authorized committees. The expenditures must, however, be reported; the party committee discloses them on Schedule F, FEC Form 3X. The FEC has sent informational notices to party committees in Illinois. For further information, contact the Commission at 202/523-4068 or toll free 800/424-9530.



ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR Subject

1983-16 Coordinated party (§41a(d)) expenditures made in special election with possible runoff. (Date made public: June 10, 1983; Length: 2 pages)

not, therefore, subject to the election law. Thus, if Mr. Hein were to repay the loan with personal funds, the payment would not come within the purview of the Act. If, however, he assigns the loan to his Committee and the Committee raises funds to retire the loan, then both the loan and the funds raised to liquidate the loan become subject to the Act's requirements. 11 CFR 104.3 (a)(4)(iv), 104.3(d), et al. The Committee would report the loan on its next report. It would not have to amend past reports unless it had raised funds for retiring the debt during a past reporting period. Nor would the Committee have to report Mr. Hein as its creditor. See also AO's 1977-43 and 1977-58; AO's 1976-70, 1976-84 and 1978-40. (Date issued: February 10, 1983; Length: 5 pages)

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1983-1: Portion of Congressman's Rent Paid by Campaign Committee

The principal campaign committee of Congressman Lawrence Coughlin may pay one-third of the rent on a three-room residence retained by the Congressman in his district. One of the rooms in the residence is used to store campaign supplies (including furniture and equipment used at campaign headquarters). The committee must report the rental payments as expenditures, pursuant to 2 U.S.C. §434 and 11 CFR 104.3(b).

Under the election law and Commission Regulations, a candidate and his or her campaign committee have wide discretion in making expenditures to influence the candidate's election. 2 U.S.C. §431(a). (Date issued: February 10, 1983; Length: 2 pages)

AO 1982-64: Campaign's Assumption of Candidate's Outstanding Personal Loan

Mr. Ron Hein, a Congressional candidate during 1978, obtained two loans in 1978 to pay for personal living expenses incurred during his primary campaign and to consolidate personal debts prior to the campaign. If his principal campaign committee for the 1978 primary, Ron Hein for Congress (the Committee), solicits contributions to retire that portion of the loan used for his living expenses, the contributions will be subject to the limits for the 1978 primary, as well as the prohibitions and other requirements of the Act and FEC Regulations.

AO 1983-10: \$1,000 Limit on Spending by AO 1983-11: Unauthorized Committees on Behalf of Publicly Funded Presidential Nominee

The National Conservative Political Action Committee and the Fund For A Conservative Majority (the Committees), two multicandidate political committees not authorized by any candidate, could each spend up to \$1,000 on behalf of President Reagan's 1984 general election campaign, should he seek reelection as a publicly funded candidate. (Since the committees' requests for advisory opinions presented materially indistin-

continued

Under Commission Regulations, living expenses which a candidate pays from personal funds are not considered campaign "expenditures" and are

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guishable circumstances, the Commission issued substantively identical opinions to them.)

Section 9012(f) of the Presidential Election Campaign Fund Act imposes a \$1,000 limit on expenditures made by an unauthorized committee to further the election of a publicly funded Presidential nominee. This provision applies when expenditures are made to benefit an "eligible candidate," that is, someone who has met the conditions for eligibility for public funds and who has received his party's nomination for President.

The Commission noted that an August 28, 1981, ruling of the U.S. District Court for the District of Columbia in FEC v. Americans for Change did not affect the application of the \$1,000 spending limit to the committees' proposed expenditures. In that ruling, the district court held that Section 9012(f)'s prohibition on expenditures in excess of \$1,000 was unconstitutional. On January 19, 1982, however, the Supreme Court voted 4 to 4 on the case. While the Court's split vote left the district court decision intact, the Court's equally divided affirmance of that ruling left the issue of the constitutionality of Section 9012(f) unresolved. Moreover, since the Court's affirmance of the district court's decision was equally divided, it had no precedential effect. Commissioner Lee Ann Elliott filed a concurring opinion. (Date issued: May 18, 1983; Length: 8 pages, including concurring opinion)

PUBLIC FUNDING

GOVERNOR ASKEW ELIGIBLE FOR PRIMARY MATCHING FUNDS

On May 19, 1983, the Commission determined that Governor Reubin Askew, a Democratic candidate for President, was eligible to receive federal matching funds for his 1984 primary campaign. (For a complete explanation of the eligibility requirements, consult 26 U.S.C. §9033 and Commission Regulations at 11 CFR 9033 and 9036.1.)

Under the election law, Presidential candidates may begin seeking eligibility for primary matching funds after January 1, 1983. However, the U.S. Treasury may not make actual payments before January 1, 1984. The maximum amount of matching funds an eligible candidate may receive during 1984 is equal to half the overall spending limit established by law for each publicly funded Presidential primary candidate (\$10 million, plus a cost-of-living adjustment).

COMPLIANCE

SUMMARY OF MURs

The Act gives the FEC exclusive jurisdiction for its civil enforcement. Potential violations are assigned case numbers by the Office of General Counsel and become "Matters Under Review" (MURs). All MUR investigations are kept confidential by the Commission, as required by the Act. (For a summary of compliance procedures, see 2 U.S.C. §§437g and 437(d)(a) and 11 CFR Part 111.)

This article does not summarize every stage in the compliance process. Rather, the summary provides only enough background to make clear the Commission's final determination. Note that the Commission's actions are not necessarily based on, or in agreement with, the General Counsel's analysis. The full text of this MUR is available for review and purchase in the Commission's Public Records Office.

MUR 1038: Draft Committees In Presidential Election

On December 9, 1982, the Commission voted to take no further action with regard to alleged violations of the election law and Commission Regulations by 11 "draft committees" and other parties that had actively promoted the Presidential candidacy of a Democratic Senator during 1979. The Commission's decision to terminate its investigation was precipitated by rulings of U.S. appeals courts during 1981 and 1982. The courts declined to enforce certain Commission subpoenas on the ground that committees organized to draft individuals for federal office were not political committees within the purview of the election law and were not, therefore, subject to the Commission's investigatory authority. Since the Commission was unable to obtain the evidence it sought pertaining to the allegations, it voted to close the file on the case.

Complaint: On October 4, 1979, the authorized campaign committee of the Democratic President, who was seeking reelection in 1980 (the Presidential Committee) filed a complaint against "draft committees" which had been engaged in promoting the Presidential candidacy of a Democratic Senator during 1979. In its complaint, the Committee also named as respondents the separate segregated fund of an international labor organization and certain individuals. The Presidential Committee alleged that:

-- The draft committees had failed to disclose their affiliation (in violation of 2 U.S.C. §433(b)(2)).

continued

- As affiliated committees subject to a single \$5,000 contribution limit, the draft committees had accepted excessive contributions from the international labor organization's PAC and from certain individuals (in violation of 2 U.S.C. §441a(f)).
- The international labor organization's PAC and the individuals, in turn, had violated the election law by making excessive contributions to the draft committees (2 U.S.C. §§441a(a)(1)(C) and (2) (C)).
- Two of the draft committees had failed to register and report to the Commission as political committees (in violation of 2 U.S.C. §§433 and 434).

On November 2, 1979, the Presidential Committee filed an amendment to its original complaint in which it identified additional parties who allegedly either failed to report their affiliation with the draft committees or made excessive contributions to the committees. The complainant also claimed that the Senator had become a candidate one month earlier than the date he filed a Statement of Candidacy (in violation of 2 U.S.C. §432).

General Counsel's Report: The General Counsel noted that the complainant had presented evidence which, on its face, demonstrated that the draft committees may have been part of a coordinated national effort to defeat the renomination of the incumbent President and to promote the nomination of the Democratic Senator instead. The General Counsel's analysis regarding each allegation is detailed below:

Failure to Report Affiliation. Under the Federal Election Campaign Act (i.e., the election law), political committees are required to report their affiliation on their Statements of Organization (FEC Form 1) if the committees have been "established, financed, maintained, or controlled by the same corporation, labor organization, person or group of persons..." 2 U.S.C. §441a(a)(5). Commission regulations spell out several different criteria for determining whether committees are affiliated. See 11 CFR 100.14(c)(i)(E). The General Counsel observed that, in this case, the draft committees appeared to be affiliated for the following reasons:

1. The draft committees seemed to have been established and financed by a common group of persons. For example, one or more officials of the international labor organization appeared to have acted as a founding member or organizer of each one of the draft committees. Moreover, reports filed with the Commission showed that the union had provided a substantial portion of the initial financing for four draft committees. Reports also indicated that the same major donors

made contributions to a number of the committees.

2. The draft committees seemed to have been maintained and controlled by a common group of persons. The common maintenance and control of the draft committees took the form of extensive communications, strategy coordination, transfers of funds among the committees, sharing of personnel, exchange of political intelligence and similar activities. These activities appeared to have been coordinated mainly by officials of the international labor organization, a political consultant for the draft committees and one of the Washington-based draft groups. FEC reports also indicated that some of the committees had used the same consultant or had contracted with the same vendors.

With regard to common financial control, the evidence showed a pattern wherein the draft committees solicited and then transferred, or acted as a conduit for, contributions to draft committees in the states with early primaries or caucuses.

Excessive Contributions. Based on his belief that the draft committees were affiliated, the General Counsel concluded that there was reason to believe the international labor organization's PAC and certain individuals violated the election law by making excessive contributions to the draft committees. The draft committees, in turn, appeared to have violated the election law by accepting the contributions. (Under the election law, affiliated Committees are subject to a single \$5,000 limit on both contributions they receive and contributions they make. 2 U.S.C. §441a(a)(5); AO's 1976-104 and 1978-39.) The General Counsel cited reports filed by the labor PAC, which disclosed contributions of \$5,000 made to each of four draft committees.

Failure to Register and Report. Under the election law, a committee, club, association or other group is required to register and report as a political committee when the group receives contributions or makes expenditures which, in the aggregate, exceed \$1,000 during the year. The General Counsel cited evidence supporting the complainant's allegation that two of the draft committees (one based in California, the other in Washington, D.C.) qualified as "political committees" because they had each made expenditures exceeding \$1,000 to promote the Senator's candidacy.

Senator's Failure to Disclose Candidacy on Time. The General Counsel recommended that the Commission find no reason to believe that the Senator

had failed to file a Statement of Candidacy on time (in violation of 2 U.S.C. §432). Although the Presidential Committee claimed that the Senator and agents of his campaign had informally consented to expenditures by certain draft committees several weeks prior to the date he filed his Statement of Candidacy, the Senator had filed a statement with the Commission disavowing any activities undertaken on his behalf by the draft committees. The General Counsel believed that the Presidential Committee had not provided sufficient evidence to rebut the Senator's disavowal of the draft committees' activities.

Reason to Believe Finding. Based on the evidence available, the General Counsel recommended that the Commission find reason to believe that:

- The draft committees had failed to report their affiliation, in violation of 2 U.S.C. §433(b)(2) and 11 CFR 102.2(a)(2).
- One of the draft committees had failed to report a membership organization as its connected organization, in violation of 2 U.S.C. §432(b)(2) and 11 CFR 102.2(a)(2).
- The PAC of an international labor organization and several individuals had each exceeded the \$5,000 limit on total contributions each contributor could make to these draft committees, in violation of 2 U.S.C. §441a(a)(1)(C)-(2)(C).
- Those draft committees which received a contribution from the PAC of the international labor organization had jointly accepted an excessive contribution in violation of 2 U.S.C. §441a(f).
- Those draft committees which received contributions from certain individuals had jointly accepted excessive contributions in violation of 2 U.S.C. §441a(f).

The General Counsel recommended that the Commission take no further action with regard to the Senator's failure to file a timely Statement of Candidacy.

On October 16 and November 14, 1979, the Commission voted on the General Counsel's recommendations, adopting them with the following exceptions:

- The Commission voted to take no further action on claims pertaining to excessive contributions from those individuals named in the complaint; and
- The Commission found reason to believe that the Senator may have failed to file a timely Statement of Candidacy.

Court Actions. Several of the respondent committees and the union PAC refused to comply with the FEC's subpoenas for documents. Consequently, the Commission filed five separate suits in

U.S. district courts seeking enforcement of document subpoenas issued to four of the draft committees and to the union PAC. In all cases, the district courts ordered enforcement of the subpoenas. The courts maintained that the subpoenas met the guidelines for enforceability and were within the authority of the FEC.

The international labor organization's PAC and two of the draft committees challenged the district courts' subpoena enforcement orders in U.S. appeals courts in the District of Columbia and Florida. (One of the draft committees and the international labor organization's PAC complied with the subpoenas while appealing the district courts' rulings. However, the Florida committee obtained an order from the appeals court suspending enforcement of the FEC's subpoenas until the appeals court issued its decision.)

In decisions issued by the appeals courts in 1981 and 1982, the courts reversed the lower court decisions. The appeals courts reasoned that draft committees were not "political committees" within the purview of the election law and were not, therefore, subject to the Commission's investigatory authority. The courts also held that even the election law's reporting provisions did not apply to draft activities undertaken prior to the 1979 amendments to the law. (As a result of the 1979 amendments, draft committees must now comply with the election law's reporting requirements.)

Because of these court rulings, the General Counsel recommended that the Commission take no further action against the respondents and close the file on the complaint. Since the Florida committee had not complied with the FEC's subpoenas and since the Florida committee's draft efforts were among the earliest and the most substantial, the General Counsel concluded that he could not prove whether or not the draft committees were affiliated.

Commission Determination: On December 9, 1982, the Commission voted to take no further action on the matter and closed the file on the case.



FEC MUR INDEX AVAILABLE

During June, the Commission announced the availability of the FEC MUR Index, a computerized document summarizing information on compliance cases (matters under review or MURs) which have been concluded by the Commission. The MUR Index, which includes closed MURs from 1975 to the present, will be updated periodically as additional MURs are placed on the public record. (Under the election law, a compliance case must be kept confidential until the Commission reaches a final determination and closes the file. Subsequently, the MUR is placed on the public record.)

Based on a computerized information system developed by the FEC, the MUR Index enables one to identify closed compliance cases related to a particular subject, to a provision of the election law or to a group or individual involved in a compliance action. The MUR Index includes four parts:

- **Part I, MUR Summary Reports**, contains a brief report on each MUR. Organized by MUR number, each report states: the date the MUR was opened; the date the FEC took final action; the exact location of the MUR on FEC microfilm; the names of any complainants and respondents; legal citations to alleged violations; and a reference to the subject(s) investigated.
- **Part II, the Complainant/Respondent Index**, lists each MUR by its number and alphabetically by the person who either filed the complaint or was named as a respondent in the compliance action.
- **Part III, the Citation Index**, cites all compliance cases pertaining to a particular section of the election law and FEC Regulations.
- **Part IV, the Subject Index**, identifies MURs by key words and phrases.

The FEC MUR Index may be reviewed in the FEC's Public Records Office, located at 1325 K Street, N.W., Washington, D.C. 20463. Readers may order the entire MUR Index for \$115.00 or each section, separately as follows:

- Part I (MUR Summary Reports) - \$100.
- Part II (the Complainant/Respondent Index) - \$5.00.
- Part III (the Citation Index) - \$7.50.
- Part IV (the Subject Index) - \$2.50.

Checks, made payable in advance to the FEC, should be sent care of the Public Records Office. Purchasers should expect a 30-day delivery peri-

od. For more information, contact the Public Records Office at 523-4181 or toll free 800/424-9530.

1982 ANNUAL REPORT AVAILABLE

The Commission submitted its Annual Report 1982 to the President and Congress on June 1, 1983. The Report describes the Commission's administration of the election law during 1982, including preparations for the 1984 Presidential elections. The Report also presents campaign finance statistics for the 1982 elections and summarizes significant issues addressed in advisory opinions and litigation. A separate chapter covers the Commission's legislative recommendations, based on the agency's experience in administering four Congressional and two Presidential elections.

CHANGE OF ADDRESS

Political Committees

Registered political committees are automatically sent the Record. Any change of address by a registered committee must, by law, be made in writing as an amendment to FEC Form 1 (Statement of Organization) and filed with the Clerk of the House, the Secretary of the Senate, or the FEC, as appropriate.

Other Subscribers

Record subscribers (who are not political committees), when calling or mailing in a change of address, are asked to provide the following information:

1. Name of person to whom the Record is sent.
2. Old address.
3. New address.
4. Subscription number. The subscription number is located in the upper left hand corner of the mailing label. It consists of three letters and five numbers. Without this number, there is no guarantee that your subscription can be located on the computer.

REGULATIONS

STATUS OF FEC REGULATIONS SENT TO CONGRESS

Regulations*	Date Sent to Congress	Federal Register Publication	Date Prescribed** by the Commission
11 CFR 100.7(a)(1)(i)(C), 100.7(b)(11), 100.8(b)(12), 110.10(b) and 9003.2(c)(3) Candidate's Use of Property in Which Spouse Has an Interest	4/22/83	4/27/83 48 <u>Fed. Reg.</u> 19019	
11 CFR 102.6 and 102.17 Transfer of Funds; Collecting Agents, Joint Fundraising	6/2/83	6/7/83 48 <u>Fed. Reg.</u> 26296	
11 CFR 110.11 Disclaimer Notices	2/25/83	3/2/83 48 <u>Fed. Reg.</u> 8809	5/13/83
11 CFR 110.12(a)(2) - (a)(4) Annual Honoraria Limit	NA	4/8/82 47 <u>Fed. Reg.</u> 15098	4/8/82
11 CFR 114.3 and 114.4 Communications by Corporations and Labor Organizations	3/1/83 (withdrawn to obtain further public comment, 4/22/83)	3/4/83 48 <u>Fed. Reg.</u> 9236; 4/22/83 48 <u>Fed. Reg.</u> 17567	
11 CFR 106 and 9031 - 9039 Presidential Primary Matching Fund	1/24/83	2/4/83 48 <u>Fed. Reg.</u> 5224	4/4/83

*The chart is cumulative, listing all amendments to the FEC Regulations proposed after the 1981 edition of 11 CFR was published, including any technical amendments.

**The Commission may prescribe its regulations 30 legislative days after it has transmitted them to Congress, provided neither the House nor the Senate disapproves them during this period.

COURT CASES

Kennedy for President Committee and Edward Kennedy v. FEC

Pursuant to 26 U.S.C. §9041, Senator Edward M. Kennedy, a candidate for the Democratic Party's Presidential nomination in 1980, and Kennedy for President Committee, his principal cam-

aign committee, ask the appeals court to review and set aside a final determination made by the FEC on April 4, 1983. The FEC's determination required the Kennedy campaign to repay \$55,500.33 in primary matching funds to the U.S. Treasury. (The FEC had certified the funds to Senator Kennedy for his 1980 primary election campaign.)

U.S. Court of Appeals for the District of Columbia Circuit, Docket No. 83-1521, May 13, 1983.

FEDERAL REGISTER

FEDERAL REGISTER NOTICES

The item below identifies an FEC document that appeared in the Federal Register on June 7, 1983. Copies of this notice are available in the Public Records Office.

Notice	Title
1983-16	11 CFR Part 102: Transfer of Funds; Collecting Agents, Joint Fundraising (Transmittal of Regulations to Congress) (48 <u>Fed. Reg.</u> 26296, June 7, 1983)

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