

Record

December 2009

Federal Election Commission

Volume 35, Number 12

Table of Contents

	Commission
1	Message from the Chairman
1	Advisory Opinions
	800 Line
4	Using Information Obtained from FEC Reports
	Outreach
7	Year-End Reporting Roundtable
7	New Orleans Conference for Campaigns, Party Committees and Corporate/Labor/Trade PACs
10	Index

Commission

Message from the Chairman

With the end of the year fast approaching, I want to take this opportunity to begin my final Message from the Chairman in the *Record* by thanking my fellow Commissioners and every member of the Commission staff for their tireless work over the last year. Without each of you, the Commission would not have been able to bring the Commission current with the backlog of matters we inherited in June of last year, when the Commission was reconstituted, and we would not have accomplished the many additional projects that were initiated, continued, or completed during 2009.

The Commissioners had an uncommonly large number of matters before them, due in no small part to the aftermath of the six month dormancy, the remaining legal issues left after the *Shays* litigation, and the Honest Leadership and Open Government Act (HLOGA) passed in 2007. HLOGA left us with thorny issues on disclosure of lobbyist bundling and travel rates, as we all know. I want to thank Vice Chairman Matt Petersen, who is our incoming Chairman and Commissioner Cyndi Bauerly, who is our incoming Vice-Chair, for their service on two of our most critical committees, Finance and Personnel. Both devoted

(continued on page 8)

Advisory Opinions

[AO 2009-26](#)

Federal Candidate May Fund Certain Activities from State Campaign Account

Illinois State Representative Elizabeth Coulson, who is also a federal candidate for the U.S. House, may use her state campaign committee funds or her state office account to sponsor a seniors fair and to mail postcards publicizing that event because those activities are not in connection with any federal or nonfederal election. She may also use her state campaign account or her state office account to pay for a “health care legislative update” letter because the letter is also not in connection with any federal or nonfederal election. Neither the postcards nor the letter would constitute “coordinated communications” under Commission regulations.

Background

Elizabeth Coulson is an Illinois State Representative and a candidate for the U.S. House in 2010. Coulson for Congress (Federal Committee) is Representative Coulson’s principal campaign committee. The Coulson Campaign Committee (State Campaign Committee) is Rep. Coulson’s state campaign committee. Under

(continued on page 2)

Advisory Opinions

(continued from page 1)

Illinois law, Rep. Coulson also receives an office allowance (State Office Account) for the purpose of defraying official office, personnel and constituent services expenses. Illinois law allows state candidates to raise funds in connection with state races from corporations and labor organizations and raise funds from individuals without limits. At least some of the donations in the State Campaign Committee exceed the limitations set by the Federal Election Campaign Act (the Act) or come

Federal Election Commission
999 E Street, NW
Washington, DC 20463

800/424-9530 (Toll-Free)
 202/694-1100 (Information Div.)
 202/501-3413 (FEC Faxline)
 202/219-3336 (TDD for the
 hearing impaired)

Steven T. Walther,
 Chairman

Matthew S. Petersen,
 Vice Chairman

Cynthia L. Bauerly,
 Commissioner

Caroline C. Hunter,
 Commissioner

Donald F. McGahn II,
 Commissioner

Ellen L. Weintraub,
 Commissioner

Alec Palmer,
 Acting Staff Director
Thomasenia Duncan,
 General Counsel

Published by the Information
 Division of the Office of
 Communications

Greg J. Scott,
 Assistant Staff Director

Amy L. Kort,
 Deputy Assistant Staff Director

Myles G. Martin,
 Editor

<http://www.fec.gov>

from sources which are prohibited by the Act.

Rep. Coulson plans to undertake three activities: 1) to organize a “seniors fair”; 2) to mail a postcard publicizing the seniors fair; and 3) to mail a “health care legislative update” letter to health care professionals in her state legislative district.

Seniors Fair. Rep. Coulson plans to organize a “seniors fair” at a local community center in her district. The purpose of this event is to promote health and safety programs available to seniors in Rep. Coulson’s state legislative district. Rep. Coulson has sponsored similar seniors fairs for the past eight years in her role as a state officeholder. Rep. Coulson states that this event will not be used to expressly advocate her election or to promote or support her federal candidacy, nor will it be used to attack or oppose any of her federal election opponents. The seniors fair will not be used for any federal election activity, nor will Rep. Coulson or her agents solicit any contributions at the seniors fair.

Promotional Postcard. Additionally, Rep. Coulson will mail approximately 12,000 postcards to seniors in her district publicizing the seniors fair that she plans to organize. The postcard will note the date, time and location of the seniors fair, in addition to the telephone number of Rep. Coulson’s district office that the recipients may call for more information about the fair. The contents, timing and distribution of the planned postcard mailing will be the same in all material respects as in previous years when Rep. Coulson was not a federal candidate. Rep. Coulson plans to pay for the mailing with funds from her State Office Account or the State Campaign Committee’s account.

Legislative Update. Finally, Rep. Coulson also plans to mail a “legislative update” letter to approximately 4,000 health care professionals in her legislative district which describes various health care legisla-

tive proposals being considered by the Illinois legislature. As with the postcard, the contents, timing and distribution of the planned mailing will be the same in all material aspects as in previous years when Rep. Coulson was not a federal candidate, and Rep. Coulson plans to pay for the mailing with funds from her State Office Account or her State Campaign Committee account.

Analysis

Seniors Fair. Rep. Coulson may sponsor the seniors fair because the event is not in connection with any federal or nonfederal election and it does not involve making any “public communications” as defined by the Act. 2 U.S.C. §431(22). The seniors fair also does not result in the making of any contributions to Rep. Coulson.

Federal candidates, their agents and entities directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, federal candidates, may not raise or spend funds in connection with federal elections unless those funds are subject to the limitations, prohibitions and reporting requirements of the Act. 2 U.S.C. §441i(e)(1)(A) and 11 CFR 300.61. Also, federal candidates, their agents and entities directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, federal candidates, may not raise or spend funds in connection with nonfederal elections unless those funds are subject to the limitations and prohibitions of the Act. 2 U.S.C. §441i(e)(1)(B) and 11 CFR 300.62. Since Rep. Coulson is a federal candidate and her state committee acts on her behalf, Section 441i(e) would apply to the seniors fair if it were in connection with any federal or nonfederal election. The Commission has previously stated, “if the funds are not raised or spent in

(continued on page 3)

Advisory Opinions

(continued from page 2)

connection with an election, then the funds do not fall within the scope of Section 441i(e).” See AO 2003-20.

Although Rep. Coulson is a federal candidate and the State Campaign Committee is established, financed, maintained or controlled by Rep. Coulson, the Commission concludes that the seniors fair is not in connection with any federal or nonfederal election, because the event will not be used to solicit any contributions for Rep. Coulson, nor will any information about the participants be provided to Rep. Coulson’s Federal Committee. The event will not involve any express advocacy of Rep. Coulson’s election or the defeat of her opponents, nor will it be used for any “federal election activity” as defined in 2 U.S.C. §431(20) and 11 CFR 100.24.

Similarly, the Commission concludes that the seniors fair is not in connection with any nonfederal election. Rep. Coulson is not a candidate for state office and the seniors fair will not be used to solicit any donations to Rep. Coulson’s State Campaign Committee. The event will rather be held as a service to Rep. Coulson’s constituents and will be consistent with similar events that Rep. Coulson has held in previous years when she was not a candidate for federal office.

Since the seniors fair is not in connection with any federal or nonfederal election and will not involve public communications or the solicitation of contributions, Rep. Coulson may use nonfederal funds to pay for any costs associated with sponsoring this event.

Promotional Postcard. Rep. Coulson may also pay for postcards publicizing the seniors fair using funds in her State Office Account or her State Campaign Committee because, as with the seniors fair, the postcards are not in connection with any federal or nonfederal election and because the postcards would not

be “coordinated communications.” Instead, the postcards will promote an event that the Commission determined is not in connection with a federal or nonfederal election.

The Act and Commission regulations prohibit a state officeholder from spending funds for a public communication that clearly identifies a federal candidate and promotes or supports a candidate unless the funds are subject to the limitations, prohibitions and reporting requirements of the Act. 2 U.S.C. §441i(f); 2 U.S.C. §431(20)(A)(iii). The postcards would be “public communications” under the Act and the postcards would clearly identify Rep. Coulson.¹ However, the Commission concluded that the postcards, as proposed, do not promote, attack, support or oppose (PASO) any candidate for federal office. Although the postcards clearly identify Rep. Coulson, the Commission has previously determined that the mere identification of an individual who is a federal candidate does not, in itself, PASO that candidate. See AOs 2007-34, 2007-21, 2006-10 and 2003-25. The postcards do not PASO Rep. Coulson, and no other candidate is clearly identified in their proposed contents. As such, Rep. Coulson is not required to pay for the costs of this mass mailing with federal funds.

Furthermore, the Commission concluded that the payment for the postcards by the state campaign committee would not constitute a coordinated communication because the communication would not meet the “payment prong” of the Commission’s three-prong test for determining coordination. If the

communication were determined to have been coordinated, the payment for the communication would be considered an in-kind contribution from the person paying for the communication to the candidate or committee with whom it was coordinated. 11 CFR 109.21.

Under the first prong of the definition of coordinated communication, a communication is only subject to the regulations if it “is paid for, in whole or in part, by a person other than that candidate, authorized committee, or political party committee.” 11 CFR 109.21(a)(1). Under this scenario, the postcards would be paid for by Rep. Coulson’s State Office Account or her State Campaign Committee. In AO 2007-01, the Commission concluded that the payment prong was not met if a U.S. Senator’s former state campaign committee paid for solicitations for the purpose of retiring debts remaining from her previous candidacies for state offices, because “the candidate and her agents are paying for these communications.” Thus, since the postcards are being paid for by Rep. Coulson and her agents, the payment prong of the coordination test is not met.

Legislative Update Letter. Rep. Coulson may also use either her State Office Account or her State Campaign Committee to pay for the “health care legislative update letter” because the letter is not in connection with any federal or nonfederal election and it similarly does not PASO any federal candidate. As with the proposed postcard described above, Section 441i(e) would only apply to Rep. Coulson if the activity involved were in connection with any federal or nonfederal election, including any federal election activity described at 11 CFR 100.24. The letter describes Illinois State legislative developments to health care pro-

(continued on page 4)

¹ A public communication includes any communication by means of a mass mailing. A “mass mailing” is defined as “a mailing...of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.” 2 U.S.C. §431(23) and 11 CFR 100.27.

Advisory Opinions

(continued from page 3)

professionals residing in Rep. Coulson's district, and it neither solicits any donations nor expressly advocates Rep. Coulson's election, or the defeat of any of her opponents. As such, the Commission concluded that it is not in connection with any election.

With respect to the Commission regulations on "coordinated communications," the Commission concluded that, like the postcard proposal described above, the health care letter would not constitute a coordinated communication because the letter would not satisfy the "payment prong" of the coordination three-part test because Rep. Coulson and her agents would be paying for the communication. 11 CFR 109.21(a)(1).

Date Issued: November 6, 2009;

Length: 10 pages.

—Myles Martin

Advisory Opinion Requests

AOR 2009-27

Preemption of state laws restricting certain pre-recorded phone calls (American Future Fund, October 13, 2009)

AOR 2009-28

SSF soliciting the general public for earmarked contributions to candidates passed through the SSF (Democracy Engine, Inc., PAC, November 6, 2009)

Alternative Disposition of Advisory Opinion Request

The Commission considered, but was unable to reach an agreement on, an advisory opinion request from the Jennifer Brunner committee. AOR 2009-25.

800 Line

Using Information Obtained from FEC Reports

Political committees registered with the FEC must file periodic reports to disclose their receipts and disbursements. These reports are available to the public both at FEC headquarters in Washington, DC, and on the agency's website. While anyone may review committees' reports, there are restrictions on the use of certain information. This article answers common questions regarding the use of information obtained from reports and other statements filed with the FEC.

What information is available on reports and statements filed with the FEC?

Under the Federal Election Campaign Act (the Act) and FEC regulations, political committees must disclose all receipts and disbursements and provide detailed information regarding certain transactions. For example, committees must request and disclose the name, address, occupation and employer of all individual donors who contribute more than \$200 during a calendar year. Contributions from political committees must be itemized regardless of the amount. Similar itemization is required for disbursements.

What restrictions apply to the use of information obtained from reports and statements filed under the Act?

The names and addresses of individual contributors may not be sold or used for any commercial purpose or to solicit any type of contribution or donation, such as political or charitable contributions. 2 U.S.C. §438(a)(4); 11 CFR 104.15. This "sale and use" restriction is intended to protect the privacy of individual

donors. (See, for example, Advisory Opinions (AOs) 2003-24, 1995-05, 1981-38, 1980-101 and 1980-78.)

Any person who violates this restriction is subject to the penalties of 2 U.S.C. §437g.

Do these restrictions apply to information about PACs?

No. The sale and use restriction applies only to the use of individual contributor information, not to the use of names and addresses of political committees. The name and address of a political committee may be taken from FEC reports and used to solicit contributions from that political committee. 11 CFR 104.15(a) and AO 1980-101.

Do these restrictions apply to the media?

No. Information about individual contributors may be used in newspapers, magazines, books or similar communications provided that "the principal purpose of such communications is not to communicate any contributor information listed on such reports for the purpose of soliciting contributions or for other commercial purposes." 11 CFR 104.15(c).

Under this exception, media outlets, such as newspapers and news and opinion websites, may republish individual contributor information, including personally identifiable information available in campaign finance reports. Contributors should note that FEC regulations require committees to seek and disclose an individual's "mailing address." 11 CFR 104.8(a). A mailing address is any address at which an individual can receive mail, including a work address or a P.O. Box.

May an incorporated organization use information about contributors obtained from FEC reports in its products?

No. Information about individual contributors obtained from FEC

(continued on page 5)

800 Line

(continued from page 4)

reports could not be included in an organization's commercially available products. However, if the contributors are political committees, the inclusion of contributor information as a feature of the organization's commercially available products would not be prohibited under the Act and regulations. AOs 2004-24 and 1980-101.

What are some ways an incorporated organization could permissibly use information obtained from FEC reports?

In a series of AOs, the Commission has found the following corporate activities permissible:

- The sale of pages copied from FEC reports as long as the pages do not disclose information on individual contributors. AO 1989-19.
- The posting of campaign finance reports (including lists of contributors), filed by federal PACs, on bulletin boards of an incorporated membership organization in order to provide information to members. AO 1988-02.
- A business's use of the names and addresses of candidates to solicit them as potential clients. AO 1983-44.
- The use of the names and addresses of candidates, campaign workers, campaign consultants and others who provide services to political committees in order to solicit newsletter subscriptions or to obtain leads for news articles. AO 1981-38.

Could a nonprofit organization use the information about contributors from FEC reports to send out their educational information via direct e-mail?

No. In AO 2003-24, the Commission said a 501(c)(3) organization could not obtain information copied from FEC reports in order to send out educational and advocacy infor-

mation to individuals via direct mail. The communication would result in the individual's receipt of a later communication that might include a solicitation for funds. Therefore, this action would violate the "sale and use" restrictions of the Act. Under Commission regulations, "soliciting contributions" includes soliciting any type of contribution or donations, such as political or charitable contributions. 11 CFR 104.15(b).

May a candidate use the names and addresses of individual contributors to his opponent or to other candidates or committees to solicit contributions?

No. While the Commission has allowed candidates to use an opponent's list of contributors to send letters clarifying their views, the letters could not carry a solicitation. AO 1981-05.

When can a candidate use the names and addresses of individual contributors disclosed on the reports filed by other candidates or committees?

In a series of advisory opinions, the Commission has stated the following activities are permissible:

- A candidate may inform individual contributors disclosed on reports filed by an unauthorized political committee that the candidate did not authorize the committee to solicit for the campaign. AO 1984-02.
- A candidate may use information from an opponent's reports in order to respond to alleged defamatory charges. AO 1981-05.
- A candidate may use in solicitation materials the campaign expenditure data reported by other candidates. AO 1980-78.

May a political committee compile its own list of contributors and distribute it to others?

The sale and use restriction does not prevent a committee from compiling its own list of contributors and

distributing it to others. Subject to other applicable requirements of the Act, a committee may donate, sell, rent or trade its contributor list to other committees and organizations. See, for example, AOs 1982-41 and 1981-53.

Treasurers are responsible for ensuring that the mail lists they lease or purchase have not been developed in violation of the sale and use restriction.

How can a political committee permissibly use information obtained from FEC reports?

In a series of advisory opinions, the Commission has found the following activities permissible:

- A PAC may use information from FEC reports to notify campaign contributors that a candidate has switched party affiliation, and has promised to refund contributions upon request. AO 2009-19.
- The use of any information (other than information on individual contributors) in a directory of PACs to be sold commercially. AO 1980-101.

May an individual use FEC contributor information to verify the names of individual contributors contained on a list intended to be used for commercial purposes?

No. By using FEC information to purge individual contributors from an existing list of contributors or to otherwise identify contributors, an individual would be increasing the commercial value of the list, thereby violating Section 438(a)(4)'s ban on commercial use of contributor information. See AO 1985-16.

May an individual use contributor information for an academic research project?

Yes. In AO 1986-25, the Commission stated that the use of individual contributor information for an academic research project that would

(continued on page 6)

800 Line

(continued from page 5)

not involve the sale or use of that information for a commercial purpose or for soliciting contributions would be permissible.

How can a political committee be sure that no one is using the information it reports to solicit its individual contributors?

A political committee's mail list is one of its most valuable assets. In order to protect this asset, FEC rules provide a method of detecting whether the names and addresses of individual contributors are being used illegally. A political committee may sprinkle throughout or "salt" each report with up to ten fictitious names. 2 U.S.C. §438(a)(4); 11 CFR 104.3(e).

If a solicitation or commercial mailing is sent to one of the fictitious names, the committee will know that someone has illegally used the names of contributors disclosed on its reports. The committee may file a complaint with the FEC. Salting enables the committee to protect the privacy of its individual contributors.

In disclosing the fictitious contributors on a report, how may committee avoid inflating the figure reported for total contributions?

One way to be sure that the total amount of contributions remains unaltered and accurate is to take a portion of the subtotal for unitemized contributions and allocate it, as itemized contributions, among several fictitious contributors. The committee itemizes each fictitious contribution on a Schedule A, providing a real address (such as the address of a committee worker) for each fictitious contributor. The committee must adjust its subtotals for itemized and unitemized contri-

butions accordingly on the Detailed Summary Page.

If a committee uses fictitious names, how should it report them to the FEC?

When a committee uses fictitious names on a report, the list of fictitious contributions should be sent, under separate cover, directly to the Commission's Reports Analysis Division (not the Secretary of the Senate or the appropriate state filing office) on or before the date the report containing the fictitious names is filed. The fictitious names will be maintained by the Commission and will not become part of the public record.

What should I do if I believe a violation of the sale and use restriction has occurred?

If you believe the sale and use restriction has been violated, you may file a written complaint with the FEC. Send the Commission a letter explaining why you (the complainant) believe the law may have been violated. Describe the specific facts, circumstances and names of the individuals or organizations responsible (the respondents).

Your complaint should also indicate which allegations are based on personal knowledge and which ones are based on outside sources (for example, newspaper articles). The letter must be signed, sworn to and notarized. For additional information, consult the [Filing a Complaint](#) brochure.

Notwithstanding the protections offered by the sale and use restriction, must a donor provide his/her name, address, occupation and employer?

FEC regulations require committees to make "best efforts" to obtain and report this information for donors whose contributions exceed \$200 in a calendar year, but there is no provision that requires a donor to

PACronyms, Other PAC Publications Available

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

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

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

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

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

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

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

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

(continued on page 7)

800 Line

(continued from page 6)

provide it. 11 CFR 104.7. It should be noted, however, that a committee can only accept up to \$50 from an anonymous source. 11 CFR 110.3(c) (4).

Can a donor provide a P.O. Box or work address, instead of a home address?

FEC regulations refer to an individual's "mailing address," (11 CFR 104.8(a)). So, any address at which an individual can receive mail would suffice.

Additional Information

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

—Kathy Carothers

Outreach

Year-End Reporting Roundtable

On January 20, 2010, the Commission will host two roundtable sessions on reporting, including the recently enacted lobbyist bundling disclosure rules. The reporting workshops will address common filing problems and provide answers to questions committees may have as they prepare to file their Year-End

Roundtable

Year-End Reporting Roundtable

FEC Headquarters
Washington, DC
January 20, 2010

Two Sessions:

Reporting for Candidate Committees, 9:30 a.m.-11:00 a.m.
Reporting for PACs and Party Committees, 1:00 p.m.-2:30 p.m.

reports. Attendance is limited to 50 people per session and the registration fee is \$25. The registration form is available on the FEC's website at <http://www.fec.gov/info/outreach.shtml#roundtables> and from Faxline, the FEC's automated fax system (202/501-3413, request document 590). For more information, please call the Information Division at 800/424-9530, or locally at 202/694-1100.

—Kathy Carothers

New Orleans Conference for Campaigns, Party Committees and Corporate/Labor/Trade PACs

The Commission will hold a regional conference in New Orleans, Louisiana, on February 9-10, 2010. Commissioners and staff will conduct a variety of technical workshops on the federal campaign finance law. Workshops are designed for those seeking an introduction to the basic provisions of the law as well as for those more experienced in campaign finance law. For additional information, to view the conference agenda or to register for the conference, please visit the conference website at <http://www.fec.gov/info/conferences/2010/neworleans.shtml>.

Hotel Information. The conference will be held at the InterContinental New Orleans, 444 St. Charles Avenue, New Orleans, LA 70130. The hotel is located in center of New Orleans, two blocks from the French Quarter and six blocks from the riverfront. A room rate of \$169 single/double is available for hotel reservations made by January 8, 2010. To make your hotel reservations and reserve this group rate, please call 800/445-6563 or visit the hotel website at https://resweb.passkey.com/Resweb.do?mode=welcome_ei_new&eventID=1468821 and identify yourself as attending the Federal Election Commission conference. The hotel will charge the prevail-

ing sales tax, currently 13 percent, and a \$2.00 per room, per night, occupancy fee. The FEC recommends waiting to make hotel and air reservations until you have received confirmation of your conference registration from Sylvester Management Corporation.

Registration Information. The registration fee for this conference is \$550. A late charge of \$50 will be added for registrations received after 5 p.m. EST, January 8, 2010. Complete registration information is available online at <http://www.fec.gov/info/conferences/2010/neworleans.shtml>.

FEC Conference Questions

Please direct all questions about conference registration and fees to Sylvester Management Corporation (Phone: 1-800/246-7277; e-mail: rosalyn@sylvestermanagement.com). For program-related questions about upcoming conferences and workshops in 2010, call the FEC's Information Division at 1-800/424-1100 (press 6), or send an e-mail to Conferences@fec.gov.

—Dorothy Yeager

Conferences in 2010

Conference for Campaigns, Party Committees and Corporate/Labor/Trade PACs

InterContinental New Orleans
New Orleans, LA
February 9-10, 2010

Conference for Corporations and Their PACs

March 9-10, 2010
Westin Washington, DC City Center
Washington, DC

Conference for Candidates and Party Committees

May 3-4, 2010
Omni Shoreham Hotel
Washington, DC

Commission

(continued from page 1)

a lot of hard work and your efforts clearly were very successful. Also, Commissioners Ellen Weintraub and Caroline Hunter worked tirelessly to advance their positions and to try to find consensus whenever possible on our Regulations Committee. Both dedicated a lot of hard and thankless work. They produced very good results over many hours, many after normal working hours, negotiating, trading drafts, and sending emails to each other and the other Commissioners. Also thanks to Commissioner Don McGahn, who working with Commissioner Weintraub on the Press Committee, kept accurate information on our efforts and activities forthcoming to the public in a prompt, straightforward and educational manner.

On a personal note, I want to express my sincere appreciation to each of my Executive Assistants this year. Brad Deutsch has been with me since 2006, even through the six month dormancy. Brad has been my loyal right-hand man, advisor, and mentor in many more ways than the job description requires. Stacey Shin, who left this week to practice law in California, was there helping in every way, always with a positive attitude, infectious smile, and thoughtful foresight on how to get things done in a timely and professional manner. Stacey nearly single-handedly prepared the first draft of the well-received Weekly Digest. The format she created and the content she suggested was adopted by the Commissioners without any major modification. Tom Andersen analyzed enforcement cases with great thoroughness and attention to detail, summarized them, opined on them, and worked effectively with all the EAs on the ninth floor, and when necessary, the Commissioners, seeking consensus, and arranging schedules. He is returning to General Counsel's Office. Thanks again for the great help.

We had a good year on a number of fronts, and I would like to point some of the accomplishments out in more detail.

Elimination of Backlog Created During the Dormancy

The Commission was comprised of only two Commissioners from January 1 to June 10 of last year, and was accordingly unable to take any formal action on enforcement or other Commission matters during that period. Accordingly, a significant backlog of enforcement, regulation adoption and advisory opinion matters were awaiting the current Commissioners when we were reconstituted on June 10, 2008.

By the spring of 2009, the Commission had formally acted on all backlogged matters, and, since then has remained current on all matters submitted to the Commission that came before it for consideration. These results were due to the heightened pace of the enforcement docket commenced by the Commissioners last year, which continued into the early part of this year. All this was possible only by the extraordinary commitment to that accelerated pace by the staff of the Office of General Counsel, led by Tommie Duncan, and the Audit Division, led by Joe Stoltz.

Agency Procedures Improvements

In the fall of 2008, during the term of the previous Chairman, Don McGahn, an initiative was undertaken to conduct a full-scale, broad ranging examination of Commission policies and procedures. This review included a notice in the Federal Register asking for public feedback on how well the Commission had been fulfilling its mission, and more importantly, how the Commission can improve fairness, efficiency and transparency going forward. The Agency received numerous thoughtful, knowledgeable, and persuasive written comments as well as oral testimony at two days of formal public hearings before the full Commission on January 14-15, 2009.

These comments have already led to several new initiatives adopted by the Commission. These include (a) the adoption of a new audit hearing process; (b) the adoption of modifications to the Commission's procedures for consideration of Advisory Opinions by clarifying the role of the General Counsel; and (c) the adoption of an additional procedural rights for respondents in enforcement cases by providing them with written notices of non-complaint generated referrals and an opportunity to respond prior to consideration by the Commission of whether it has reason to believe that a violation of the Act has occurred. To further transparency, the Commission also recently adopted a policy to resume its previous practice of placing all First General Counsel Reports on the public record at the close of an enforcement matter.

Certain other initiatives are under active consideration. These include (a) providing a written status report to respondents and to the Commissioners of all matters that have not received Commission action within 12 months; (b) including Audit and Reports Analysis Division matters in the statute of limitations scheduling process; and (c) accelerating enforcement steps for statute of limitations imperiled cases.

The Weekly Digest

In May, the Commission adopted a policy of issuing a Weekly Digest covering the spectrum of the FEC's public activities. The Digests, which supplement the Commission's other press releases, are aimed at providing increased transparency to the public through a weekly synopsis of Commission actions and events and a preview of upcoming activities. The program has received substantial praise from members of the regulated community and their counsel for providing a convenient and accessible one-stop summary of all Commission matters for a given week with one click on the computer.

Website Improvement Initiative

This year the Commission launched its first formal initiative in Agency history designed to examine and obtain suggestions and opinions from outside the Agency on all aspects of ways to improve its websites and methods of internet communications. Nearly all of our disclosure mission and method of communication with the public is currently accomplished through our website and email, and we undertook this initiative in order to ensure that the Agency's website and email communication become and remain the state of the art in all aspects. Several governmental agencies and non-profit entities went out of their way to give input, and did so enthusiastically, in order to make the Commission's website the most user-friendly, thorough and, in terms of technology, the most sophisticated and advanced.

The Commission received numerous public comments and held two days of public hearings on July 29 and August 25, 2009, as part of this website improvement initiative. The comments and testimony provided the Commission with over 250 inventive ideas and strategies from experts and lay people alike, and the Commission has since moved forward with its initiative to make the FEC website as accessible, navigable, and informative as possible. Following this process, all suggestions were carefully catalogued by my Executive Assistant Stacey Shin, by subject matter. Our staff has since developed a plan to accomplish many of the suggested improvements and is working on a strategic plan for the rest. The Commission has already received an interim report relating to both. When completed, I am convinced that the Commission will have the best possible website and method of communication in an efficient, thorough and user-friendly manner. Our goal is to be ranked at least in the top 10, if not the very top, of all government agencies.

This initiative has already led to several improvements that make information on the FEC website easier to find and use. For example, campaign finance data is now available in formats that are flexible and compatible with the current generation of software for users who download information, and users can sign up to receive RSS feeds and e-mail notifications whenever specific information is updated. The Agency has also taken steps to present information in more dynamic and intuitive ways. Streaming audio is now available for all public meetings and hearings, and we hope to soon add video streaming. The Agency has also added new video content, hosted on YouTube, and a multimedia E-Learning page to the site. The Commission is currently reviewing every aspect of its web content to replace technical and legal language with plain English wherever possible. A review and streamlining of the website's navigation will be complete by early summer of next year, so that navigating the site will be equally clear and intuitive for users.

Users of our website will see other improvements in the next few months. These include (a) a compliance map to provide quick access to each state's ballot deadlines, election dates, reporting schedules and other essential compliance information; (b) data presentation and programming interfaces that will allow users direct access to the programs the Commission uses to assemble and display campaign finance information; and (c) a regulations database for searching rulemaking materials.

The Commission greatly appreciates the advice and experience shared by commenters. Because these web improvements are part of an on-going conversation with those who use the FEC website, our staff launched an FEC blog to support continuous collaboration with users. I encourage you to share your reactions to the changes we've made at <http://www.fec.gov/blog/>.

Digital Archiving of All Closed Enforcement Matters and Administrative Fine Actions Online

In June, the Commission launched the final phase of a project to make its full archive of closed enforcement matters, called Matters Under Review, or MURs, and all closed Administrative Fines matters, and all related documents regarding our Advisory Opinions available online. As a result, by the end of this calendar year, there will be nearly one million new pages of information readily available to the public on our website. As mentioned by one of the technical commenters at our Website hearing, transparency is not considered to exist, in this day and age, unless information can be found on the internet. While this material could be found if one were to physically visit our premises and scroll through mind-numbing microfilm rolls, it will now be available at the click of a computer key.

The MUR digital archiving project is estimated to be completed in the next week or two. This will result in approximately 4,600 closed MURs – consisting of approximately 770,000 pages of documents covering the 24-year period from the inception of the Agency to 1998 – being accessible in digital form on the FEC website. Upon completion, this project will be the largest expansion of the digitization of enforcement matters in the history of the Agency.

The Commission is similarly in the final phases of a project to add its complete case files of over 2,000 Administrative Fine actions to the website database.

Further, the Agency has accelerated its process of adding related documents to the Advisory Opinion files, such as draft opinions and comments. This project is near completion and has been given new emphasis by the Office of General Counsel in recent months.

(continued on page 10)

Commission

(continued from page 9)

These new pages, nearly one million in number, will be available to the public, globally, regarding disclosure of Agency actions on enforcement of the laws and regulations, and providing expanded guidance on compliance through Advisory Opinions.

I am pleased to say that, in addition to the regular workload of the Commission on matters for which we often hold diverse opinions, these initiatives have been met with, and approved by, the near unanimous support of the Commissioners.

As I reflect on the year, it is clear that all of these accomplishments have been due to the dedicated, mission-oriented, friendly, hard-working and collegial staff. Simply put, I have never worked in a place with so many dedicated people and when I joined the FEC I never would have ever expected to find so many great employees working for the Agency.

Finally, I want to thank Vice Chairman Matt Petersen for his support and assistance during the last year. I wish him the best of luck as he takes over the gavel on January 1, and I know, with the support of the Commissioners and the entire FEC staff, he will have a successful chairmanship in 2010. Additionally, I am confident that Commissioner Cyndi Bauerly will do a great job as Vice-Chair. Both are hard working, dedicated public servants, and they will lead the Commission effectively and productively in the upcoming year.

Best Wishes to all of you and your families and friends for a joyous Holiday Season and a Happy New Year.

—Chairman Steven T. Walther

Index

The first number in each citation refers to the numeric month of the 2009 *Record* issue in which the article appeared. The second number, following the colon, indicates the page number in that issue. For example, “1:4” means that the article is in the January issue on page four.

Advisory Opinions

- Procedural rules for advisory opinions, 8:4
- 2008-14: Internet campaign TV station’s activities qualify for press exemption, 1:7
- 2008-15: Nonprofit corporation may use general treasury funds to broadcast radio advertisement, 1:8
- 2008-16: State party committee status for Libertarian Party of Colorado, 1:9
- 2008-17: PAC may pay expenses incurred by Senator’s co-author, 2:5
- 2008-18: Drug discount card program would result in prohibited corporate contributions, 2:6
- 2008-19: Campaign committee employee may serve as Leadership PAC’s treasurer, 2:8
- 2008-20: Non-profit corporation may reimburse its PAC for advertising expenses, 3:5
- 2008-21: Solicitation of members of corporation’s wholly owned mercantile exchanges for PAC contributions, 4:5
- 2008-22: Senator’s committee may repay certain personal loans with campaign funds, 3:5
- 2009-01: Renewal of Socialist Workers Party’s partial disclosure exemption, 5:1
- 2009-02: Independent expenditures by single member LLC, 5:5
- 2009-04: Recount and election contest funds, 5:6
- 2009-06: Federal officeholder’s state campaign committee may raise nonfederal funds to retire debts, 6:1
- 2009-07: Campaign’s use of candidate-owned LLC’s boat, 8:5
- 2009-08: Use of campaign funds for home security upgrades, 6:2
- 2009-10: Federal officeholder may use campaign funds to pay certain legal fees, 8:6
- 2009-12: Candidate may use campaign funds for certain legal fees, 8:7
- 2009-13: Political committee status of consultants serving LLCs who make independent expenditures, 11:9
- 2009-14: LLC affiliated with domestic subsidiary of a foreign corporation may administer an SSF, 10:1
- 2009-15: Candidate may accept contributions for potential special election, 9:1
- 2009-16: Libertarian Party of Ohio qualifies as state party committee, 9:4
- 2009-18: Disaffiliation of SSFs after restated agreement, 9:5
- 2009-19: PAC may use contributor information for limited communication, 10:5
- 2009-20: Federal officeholder may use campaign funds to pay certain legal fees of current and former staff members, 10:6
- 2009-21: FECA preempts West Virginia law affecting federal candidates, 10:7
- 2009-22: National party committee may file lobbyist bundling reports quarterly, 11:11
- 2009-23: Nonfederal PAC need not allocate its expenses, 11:12
- 2009-24: Illinois Green Party qualifies as state party committee, 11:13
- 2009-26: Federal candidate may fund certain activities from state campaign account, 12:1

Audits

Commission Adopts Procedural Rules for Audit Hearings, 8:3

Commission

Message from the Chairman, 1:1; 2:1; 3:1; 7:1; 8:1; 12:1

New Chairman and Vice Chairman elected, 1:14

Compliance

MUR 5408: Rev. Al Sharpton, Sharpton 2004 and National Action Network, 6:5

Contribution Limits

Contribution limits for 2009-2010, 3:8

Court Cases

_____ v. FEC

- Cao, 2:2
- EMILY's List, 11:1
- Public Citizen, Inc., 6:1
- Republican National Committee, 1:1

Enforcement

Agency procedure for notice to respondents in non-complaint generated matters, 9:9

Outreach

Conferences scheduled for 2009, 1:15; 2:10; 3:14; 4:10; 5:7; 8:10; 9:9; 10:12

FEC to hold summer state outreach workshops, 6:7; 7:10

New Orleans conference for House and Senate campaigns, party committees and corporate/labor/trade PACs, 12:7

July reporting roundtable, 6:7; 7:9

Roundtable on new lobbyist bundling disclosure rules, 3:14

Year-end reporting roundtable, 12:7

Party Activities

2009 Coordinated party expenditure limits for 2009, 3:7

Party financial activity for 2009, 9:8

Public Hearing

Comment period extended, 2:1

Commission holds public hearing on agency practices and procedures, 3:10

FEC to hold hearing on website and Internet communications improvements, 7:4

Hearing on Commission activities and procedures, 1:6

Regulations

Civil penalties adjusted for inflation, 8:1

Commission announces disposition of petitions for rulemakings regarding candidate debates, 9:2

Final Rules on reorganization of National Voter Registration Act regulations, 9:1

Final Rules on repeal of Millionaires' Amendment, 2:4

Final Rules on reporting contributions bundled by lobbyists, registrants and their PACs, 3:1

Notice of Proposed Rulemaking on coordinated communications, 11:1

Notice of Proposed Rulemaking on federal election activity, 11:7

Reports

April Reporting Reminder, 4:1

California Special Election Reporting: 10th District, 8:9

California Special Election Reporting: 32nd District, 4:4

FEC Form 3L Due May 20, 5:1

FEC Form 3L Due in July, 7:3

Illinois Special Election Reporting: 5th District, 2:8

July Reporting Reminder, 7:1

Massachusetts Special Election Reporting: Senate Vacancy, 11:3

New York Special Election Reporting: 20th District, 3:9

October Reporting Reminder, 10:1
Reports Due in 2009, 1:2

Statistics

2008 Presidential receipts nearly double 2004 totals, 7:8

Growth in PAC financial activity slows, 6:6

House and Senate campaign fundraising through June, 10:9

Party financial activity for 2009, 9:8

Party Support for candidates increases in 2008 election cycle, 7:7

Semi-annual PAC Count, 4:8

800 Line

Best practices for committee management, 4:1

Preparing for the next election, 7:5

Retiring campaign debt, 1:10

Using information obtained from FEC reports, 12:4

Volunteer Activity, 10:9

FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

Official Business
Penalty for Private Use, \$300

PRESORTED STANDARD
U.S. POSTAGE
PAID
FEDERAL ELECTION COMMISSION

