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Commission

Message from the Chairman

New Executive Staff

The Commissioners have filled long-awaited hires for two staff positions that report directly to the Commissioners, namely the Staff Director, which is a statutory position, and the Chief Financial Officer, a position which was determined to report directly to the Commissioners in July, 2007.

We are very pleased with these new hires, and both will be on board before the end of the month. They both have exceptional backgrounds and leadership skills, and we know that they will be very well received by the staff.

The new Staff Director, Robert A. Hickey, has been serving as Chief of Staff of the National Intelligence University (NIU), Office of the Director National Intelligence (ODNI). While at the ODNI, Mr. Hickey also held the position of Chief Information Officer, and also was in charge of the development, coordination and implementation of the NIU human capital management plan, budget development (over \$250 million) and execution. Mr. Hickey was unanimously selected by the Commissioners from a group of over

Regulations

Final Rules on Reporting Contributions Bundled by Lobbyists, Registrants and Their PACs

On December 18, 2008, the Commission approved final rules regarding disclosure of contributions bundled by lobbyists/registrants and their political action committees (PACs). These rules implement Section 204 of the Honest Leadership and Open Government Act of 2007 (HLOGA) by requiring “reporting committees” (authorized committees of federal candidates, Leadership PACs and political party committees) to disclose certain information about any lobbyist/registrant or lobbyist/registrant PAC that forwards, or is credited with raising, two or more bundled contributions ag-

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Amend FEC Form 1 by March 29, 2009

Lobbyist/Registrant PACs and Leadership PACs must identify themselves as such by amending their FEC Form 1, no later than March 29, 2009. See “Disclosure Requirements” on page 4 for details.

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Regulations

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gregating in excess of the reporting threshold within a “covered period” of time. These requirements apply to both in-kind and monetary contributions. The reporting threshold for 2009 is \$16,000 and is indexed annually for inflation.

Lobbyist/Registrants and Their PACs

The rules define a lobbyist/registrant as a current registrant (under section 4(a) of the Lobbying Disclosure Act of 1995 (the LDA)) or an individual listed on a current registration or report filed under sections

4(b)(6) or 5(b)(2)(C) of the LDA. 11 CFR 104.22(a)(2). A lobbyist/registrant PAC is any political committee that a lobbyist/registrant “established or controls.” 11 CFR 100.5(e)(7) and 104.22(a)(3). For the purposes of these rules, a lobbyist/registrant “established or controls” a political committee if he or she is required to make a disclosure to that effect to the Secretary of the Senate or Clerk of the House of Representatives. 11 CFR 104.22(a)(4)(i). If the political committee is not able to obtain definitive guidance from the Senate or House regarding its status, then it must consult additional criteria in FEC regulations. Under these criteria, a political committee is considered a lobbyist/registrant PAC if:

- It is a separate segregated fund whose connected organization is a current registrant; (11 CFR 104.22(a)(4)(ii)(A)); or
- A lobbyist/registrant had a primary role in the establishment of the committee *or* directs the governance or operations of the committee. (Note that the mere provision of legal compliance services or advice by a lobbyist/registrant would not by itself meet these criteria.) (11 CFR 104.22(a)(4)(ii)(B)(1) and (2)).

Disclosure is triggered based on the activity of persons “reasonably known” by the reporting committee to be lobbyist/registrants or lobbyist/registrant PACs. In order for reporting committees to determine whether a person is reasonably known to be a lobbyist/registrant or lobbyist/registrant PAC, the rules require reporting committees to consult the Senate, House and FEC web sites. 11 CFR 104.22(b)(2)(i). The Senate and House web sites identify registered lobbyists and registrants, while the FEC web site identifies whether a political committee is a lobbyist/registrant PAC. A computer printout or screen capture showing the absence of the person’s name on the Senate, House or FEC web sites

on the date in question may be used as conclusive evidence demonstrating that the reporting committee consulted the required web sites and did not find the name of the person in question. 11 CFR 104.22(b)(2)(ii). Nevertheless, the reporting committee is required to report bundled contributions if it has actual knowledge that the person in question is a lobbyist/registrant or lobbyist/registrant PAC even if the committee consulted the Senate, House and FEC web sites and did not find the name of the person in question. 11 CFR 104.22(b)(2)(iii).

Covered Periods

An authorized committee, Leadership PAC¹ or party committee (collectively “reporting committees”) must file new FEC Form 3L when it receives two or more bundled contributions aggregating in excess of \$16,000 from a lobbyist/registrant or lobbyist/registrant PAC during a specified time period. That time period, called a “covered period,” is defined in HLOGA as January 1 through June 30, July 1 through December 31 and any reporting period applicable under the Federal Election Campaign Act (the Act). 2 U.S.C. §434(i)(2); 11 CFR 104.22(a)(5). As a result, covered periods will typically coincide with a committee’s regular FEC reporting periods, except that bundling reports filed in July and January will also cover the preceding six months. One exception, noted below, permits monthly filers to file Form 3L on a quarterly basis, if they choose.

¹ A Leadership PAC is defined as a political committee that is directly or indirectly established, financed, maintained or controlled by a candidate or individual holding federal office but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee of the candidate or individual, except that Leadership PAC does not include a political committee of a political party. 11 CFR 100.5(e)(6).

Semi-annual Covered Period. All reporting committees with bundled contributions to disclose must file a report covering the semi-annual periods of January 1 through June 30 and July 1 through December 31. 11 CFR 104.22(a)(5)(i). Totals for the first six months of the year will appear on quarterly filers' July 15 report and on monthly filers' July 20 report.² All reporting committees will disclose totals for the second half of the year on their January 31 Year-End Report.

Quarterly Covered Period. The covered period for reporting committees that file campaign finance reports on a quarterly schedule in an election year includes the semi-annual periods above and also the calendar quarters beginning on January 1, April 1, July 1 and October 1, as well as the pre- and post-election

² In a non-election year, committees that file only semi-annually will file Form 3L on July 31 and January 31.

Campaign Guides Available

For each type of committee, a *Campaign Guide* explains, in clear English, the complex regulations regarding the activity of political committees. It shows readers, for example, how to fill out FEC reports and illustrates how the law applies to practical situations.

The FEC publishes four *Campaign Guides*, each for a different type of committee, and we are happy to mail your committee as many copies as you need, free of charge. We encourage you to view them on our web site www.fec.gov.

If you would like to place an order for paper copies of the *Campaign Guides*, please call the Information Division at 800/424-9530.

reporting periods (including runoff or special elections), if applicable. 11 CFR 104.22(a)(5)(ii) and (v). Authorized committees of House and Senate candidates have the same quarterly covered period for a non-election year as in an election year. However, Leadership PACs or party committees that file quarterly in an election year file campaign finance reports semi-annually in a non-election year. Therefore, in a non-election year, these reporting committees must file lobbyist bundling disclosure only for the semi-annual covered periods, and the pre- and post-special election reporting periods, if applicable. Some authorized committees of Presidential candidates may also file quarterly reports.

Monthly Covered Period. For reporting committees that file campaign reports on a monthly basis, the covered period includes the semi-annual periods above and each month in the calendar year, except that in election years they file for the pre- and post-general election reporting periods in lieu of the November and December reports. 11 CFR 104.22(a)(5)(iii). As noted above, reporting committees that file campaign finance reports monthly may elect to file their lobbyist bundling disclosure on a quarterly basis. 11 CFR 104.22(a)(5)(iv). Reporting committees wishing to change their lobbyist bundling disclosure from monthly to quarterly must first notify the Commission in writing. Electronic filers must file this request electronically. A reporting committee may change its filing frequency only once in a calendar year. 11 CFR 104.22(a)(5)(iv).

Bundled Contributions

The disclosure requirements apply to two distinct types of bundled contributions: those that are forwarded to the reporting committee by a lobbyist/registrant or lobbyist/registrant PAC and those that are received directly from the contributor and are credited by the reporting

committee to a lobbyist/registrant or lobbyist/registrant PAC.

A forwarded contribution is one that is delivered, either physically or electronically, to the reporting committee by the lobbyist/registrant or lobbyist/registrant PAC, or by any person that the reporting committee knows to be forwarding a contribution on behalf of a lobbyist/registrant or lobbyist/registrant PAC. These contributions count toward the bundling disclosure threshold regardless of whether the committee awards any credit to the lobbyist/registrant or lobbyist/registrant PAC.³ 11 CFR 104.22(a)(6)(i).

Bundled contributions also include those received from the original contributor when the contributions are credited by the reporting committee to a lobbyist/registrant or lobbyist/registrant PAC through records, designations or other means of recognizing that a certain amount of money has been raised by that lobbyist/registrant or lobbyist/registrant PAC. 11 CFR 104.22(a)(6)(ii). The final rules outline ways that a reporting committee may be considered to "credit" a lobbyist/registrant or lobbyist/registrant PAC for raising contributions.

For example, a reporting committee may credit lobbyist/registrants or lobbyist/registrant PACs through records (written evidence, including writings, charts, computer files, tables, spreadsheets, databases or other data or data compilations stored in any medium from which

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³ These rules do not affect the existing recordkeeping and reporting provisions that require each person who receives and forwards contributions to a political committee to forward certain information identifying the original contributor and, for contributions received and forwarded to an authorized committee, the reporting and recordkeeping requirements by persons known as "conduits" or "intermediaries." See 11 CFR 102.8 and 110.6.

Regulations

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information can be obtained). 11 CFR 104.22(a)(6)(ii)(A).

Designations or other means of recognizing that a lobbyist/registrant or lobbyist/registrant PAC has raised a certain amount of money include, but are not limited to:

- Titles given to persons based on their fundraising;
- Tracking identifiers assigned by the reporting committee and included on contributions or contribution-related material that may be used

to maintain information about a person's fundraising;

- Access, for example through invitations to events, given to lobbyist/registrants or lobbyist/registrant PACs as a result of their fundraising levels; or
- Mementos given to persons who have raised a certain amount of contributions. 11 CFR 104.22(a)(6)(ii)(A)(1)-(4).

Note, however, that the rules exclude from the definition of "bundled contribution" any contribution made from the personal funds of the lobbyist/registrant or his or her spouse, or from the funds of the lobbyist/registrant PAC. 11 CFR 104.22(a)(6)(iii).

Disclosure Requirements

As noted above, the Commission has created new FEC Form 3L, Report of Contributions Bundled by Lobbyists/Registrants and Lobbyist/Registrant PACs, to accommodate the new disclosure requirements. Reporting committees must use the form to disclose:

- Name of each lobbyist/registrant or lobbyist/registrant PAC;
- Address of each lobbyist/registrant or lobbyist/registrant PAC;
- Employer of each lobbyist (if an individual); and
- The aggregate amount of bundled contributions forwarded by or received and credited to each.

Electronic filers are required to file Form 3L electronically. A new release of FECFile will be available from the FEC.

Reporting committees must maintain records of any bundled contributions that aggregate in excess of the reporting threshold and are reported on Form 3L. Reporting committees must keep sufficient documentation of the information contained in the reports to check their accuracy and completeness and must keep those records for three years after filing FEC Form 3L. 11 CFR 104.22(f).

The Commission has additionally revised FEC Form 1, Statement of Organization, to allow political committees to identify themselves as Leadership PACs or lobbyist/registrant PACs. As of March 29, 2009, political committees that meet the definition of "lobbyist/registrant PAC" or Leadership PAC must identify themselves as such when filing FEC Form 1 with the Commission. Political committees that meet the definition of "lobbyist/registrant PAC" or Leadership PAC that have already filed FEC Form 1 must amend their FEC Form 1 no later than March 29, 2009, to identify themselves as such.

Additional Information

The new rules will take effect on March 19, 2009, and recordkeeping requirements begin on this date. Reporting committees must also begin tracking their bundled contributions as of this date. Compliance with the reporting requirements for reporting committees is required after May 17, 2009. Reports filed in accordance with these rules need not include contributions bundled by lobbyist/registrants if the contributions are received before March 19. Contributions bundled by lobbyist/registrant PACs need not be reported if they are received by April 18.

The final rules and their Explanation and Justification were published in the *Federal Register* on February 17, 2009, and are available on the FEC web site at http://www.fec.gov/law/cfr/ej_compilation/2009/notice_2009-03.pdf.

—Elizabeth Kurland

Federal Register

Federal Register notices are available from the FEC's Public Records Office, on the web site at www.fec.gov/law/law_rulemakings.shtml and from the FEC Faxline, 202/501-3413.

Notice 2009-3

Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants (74 FR 7285, February 17, 2009)

Notice 2009-4

Price Index Increases for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold (74 FR 7435, February 17, 2009)

Notice 2009-5

Filing Dates for the Illinois Special Election in the 5th Congressional District (74 FR 7689, February 19, 2009)

Notice 2009-7

Correction to Reporting Contributions Bundled by Lobbyists, Registrants and the PACs of Lobbyists and Registrants (74 FR 9565, March 5, 2009)

Advisory Opinions

[AO 2008-20](#)

Non-Profit Corporation May Reimburse its PAC for Advertising Expenses

The National Right to Life Committee, Inc. (NRLC) may reimburse its separate segregated fund for expenses the separate segregated fund incurred in broadcasting a radio advertisement. NRLC's separate segregated fund paid for the ad as a legal precaution while NRLC awaited an advisory opinion from the Commission. Because the Commission has since issued an advisory opinion that stated NRLC could have paid for the ad with its general treasury funds, NRLC may reimburse its separate segregated fund for those advertising costs.

Background

NRLC is a non-stock, not-for-profit corporation. The National Right to Life Political Action Committee (NRLCPAC) is NRLC's separate segregated fund.

In AO 2008-15, issued November 24, 2008, the Commission determined that NRLC could use general treasury money to finance the broadcast of one of two ads, titled "Waiting for Obama's Apology #1" (Apology #1). The Commission could not approve a response regarding the second ad, titled "Waiting for Obama's Apology #2." See the January, 2009, *Record*, page 8.

On October 28, 2008, NRLCPAC began broadcasting the Apology #1 ad. While awaiting the Commission's decision in AO 2008-15, NRLCPAC paid for the broadcast out of legal precaution. NRLCPAC paid a total of \$69,271.56 to broadcast the ad between October 28 and November 24, the date the Commission issued AO 2008-15. NRLC then asked the Commission whether it could reimburse NRLCPAC for the

money the separate segregated fund spent broadcasting the Apology #1 ad during that time period.

Analysis

In the unique circumstances presented by this situation, NRLC may reimburse NRLCPAC for the cost of this ad, which NRLC was allowed to pay for under the Federal Election Campaign Act (the Act).

NRLC used funds from NRLCPAC, its separate segregated fund, to pay for the advertisements as a precaution against legal liability while NRLC awaited the Commission's advisory opinion. Thus, NRLC should not be penalized for taking these precautionary measures to comply with the law.

The Commission has previously allowed a reimbursement in a similar situation. In AO 1979-33, a labor organization's separate segregated fund paid for a banquet that the labor organization mistakenly believed to constitute political campaign activity. The money, instead, was to be used for non-partisan get-out-the-vote activities, and thus was exempt from the Act's definition of "contribution or expenditure" in 2 U.S.C. §441b(a). The Commission allowed the labor organization to reimburse the SSF because the labor organization could have financed the dinner directly without violating the Act. Although the SSF initially paid for the dinner, the Commission concluded that it did not change the characterization of the money as a payment for an exempt activity under section 441b. In this situation, NRLC, like the labor organization in AO 1979-33, could have financed the activity with general treasury funds without violating the Act.

Therefore, the Commission concluded that NRLC may reimburse NRLCPAC for the costs involved in broadcasting the Apology #1 radio advertisement between October 28 and November 24, 2008.

Date Issued: January 30, 2009;
Length: 4 pages.

—Isaac J. Baker

[AO 2008-22](#)

Senator's Committee May Repay Certain Personal Loans With Campaign Funds

A Senator's authorized committee may use money raised for the 2008 general election to repay loans made by the Senator to the committee (personal loans) of up to \$250,000 for the 2008 primary campaign. Also, the Senator's authorized committee may use money raised for the 2008 and 2014 campaigns to repay the Senator's personal loans of any amount for his 2002 campaign.

Background

Lautenberg for Senate (the Committee) is New Jersey Senator Frank Lautenberg's principal campaign

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AO Search System Available

The FEC has an Advisory Opinion Search System available on its web site at www.fec.gov. This search function allows users to search for advisory opinions (AOs) by the AO number or name of requestor, or to enter search terms or perform an advanced search for documents.

The system quickly provides relevant AOs, along with all related documents including advisory opinion requests, comments and any concurring or dissenting opinions issued by Commissioners. The search function also provides summary material and links to other AOs cited in the opinion.

When the search system was first launched, it included AOs issued from 1997 to the present. The system has now been updated to include AOs dating back to 1990. The AO search system is available at <http://saos.nictusa.com/saos/searchao>.

Advisory Opinions

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committee for the 2002 and 2008 Senate elections.

Between October 6 and 17, 2002, Senator Lautenberg made personal loans totaling \$1.51 million to the Committee for the 2002 general election. Of that money, \$1.09 million remains as outstanding debt. For the 2008 primary election, Senator Lautenberg also loaned the Committee a total of \$1.65 million, of which \$250,000 remains as outstanding debt and \$1.4 million has been converted to contributions from the Senator himself.

Analysis

The Bipartisan Campaign Reform Act of 2002 (BCRA) limited the extent to which candidates' personal loans to their committees could be

Commission Calendar Always Up-to-Date

Between issues of the *Record*, you can stay up-to-date on the latest FEC activity by visiting the Commission Calendar on our web site at <http://www.fec.gov/calendar/calendar.shtml>.

The Calendar lists Commission meetings, reporting deadlines, conferences and outreach events, advisory opinion and rulemaking comment periods and other useful information. Each calendar entry links directly to the relevant documents, so you can quickly access detailed information on the subjects that interest you.

While you're visiting www.fec.gov, be sure to explore the rest of our site to review the latest campaign finance reports and data, research enforcement actions and litigation, read press releases and get help complying with the law. Visit today and add our site to your favorites.

repaid after their elections. Under BCRA, a committee may only repay up to \$250,000 of a candidate's loan to the campaign using contributions made after the date of the election. 2 U.S.C. §441a(j); 11 CFR 116.11(b) (2).

2008 Primary Election. The \$250,000 limit on repayment of loans applies separately to the primary election and the general election. Therefore, the Committee may use general election contributions received after the 2008 primary election to repay the outstanding \$250,000 in personal loans made by Senator Lautenberg for the primary election.

2002 Elections. The Committee may use contributions received for the 2008 election, or funds that will be received for the 2014 election, to repay the entire outstanding amount of Senator Lautenberg's personal loan to the Committee for the 2002 election. The \$250,000 limit on repayment of personal loans imposed by BCRA does not apply to loans made before the effective date of the legislation, which was November 6, 2002. 2 U.S.C. §441a(j); Pub. L. 107-155, Sec. 402, Mar. 27, 2002. Because Senator Lautenberg made the loans for his 2002 election in October 2002, BCRA does not limit the amount of personal loans for that election that the Committee can repay using contributions received after the 2002 election.

The Commission has previously permitted candidates' authorized committees to use otherwise lawful campaign contributions to repay debts from previous elections. The Commission concluded in AO 1989-22 that Representative David R. Nagle's authorized committee could use contributions made with respect to the 1990 primary campaign to retire debt incurred by his 1988 campaign committee. In that case, the Commission determined the use of contributions "does not require that they be counted against the limits applicable to the previous

election unless there are facts and circumstances indicating that the contributions were actually solicited to pay the debts remaining from the previous election, or that contributors gave to the current campaign with knowledge that the funds would be applied only to debt retirement."

Also, in AO 2003-30, the Commission concluded that Senator Peter Fitzgerald's principal campaign committee could use contributions for the 2004 primary election to repay loans made to the committee in connection with the 1998 election, including personal loans from Senator Fitzgerald.

As such, the Committee may use contributions made in connection with Senator Lautenberg's 2008 and 2014 elections to repay debts from the 2002 election, including the Senator's personal loans.

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—Isaac J. Baker

Advisory Opinion Requests

AOR 2009-2

Expenditure by a single-member limited liability company (True Patriot, LLC, February 3, 2009)

AOR 2009-3

Two-for-one charitable matching of contributions to corporate PAC (ICE, Inc., February 20, 2009)

AOR 2009-4

Establishment of and limitations on recount and election contest funds with respect to Senate election (Al Franken for U.S. Senate and the Democratic Senatorial Campaign Committee, February 17, 2009)

AOR 2009-5

Refunding excess recount funds to donors (Andy Harris for Congress, February 4, 2009)

Party Activities

2009 Coordinated Party Expenditure Limits

The 2009 coordinated party expenditure limits are now available.

The limits are:

- \$87,300 for House nominees in states that have only one U.S. House Representative;
- \$43,700 for House nominees in states that have more than one U.S. House Representative; and
- A range from \$87,300 to \$2,392,400 for Senate nominees, depending on each state's voting age population.

Party committees may make these special expenditures on behalf of their 2009 general election nominees. National party committees have a separate limit for each nominee.¹ Each state party committee has a separate limit for each House and Senate nominee in its state. Local party committees do not have their own separate limit. One party committee may authorize another committee of that party to make an expenditure against the authorizing committee's limit. Local committees may only make coordinated party expenditures with advance authorization from another committee within the party.

Coordinated party expenditure limits are separate from the contribution limits; they also differ from contributions in that the party committee must spend the funds on behalf of the candidate rather than give the money directly to the campaign.

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¹ The national Senatorial and Congressional committees do not have separate coordinated party expenditure limits, but may receive authorization to spend against the national limit or state party limits.

Authority to Make Coordinated Party Expenditures on Behalf of House and Senate Nominees

National Party Committee	May make expenditures on behalf of House and Senate nominees. May authorize ¹ other party committees to make expenditures against its own spending limits. National Congressional and Senatorial campaign committees do not have separate limits.
State Party Committee	May make expenditures on behalf of House and Senate nominees seeking election in the committee's state. May authorize ¹ other party committees to make expenditures against its own spending limits.
Local Party Committee	May be authorized ¹ by national or state party committee to make expenditures against its limits.

Calculating 2009 Coordinated Party Expenditure Limits

	Amount	Formula
Senate Nominee	See table on page 7	The greater of: \$20,000 x COLA or 2¢ x state VAP ² x COLA ³
House Nominee in States with Only One Representative	\$87,300	\$20,000 x COLA
House Nominee in Other States	\$43,700	\$10,000 x COLA
Nominee for Delegate or Resident Commissioner⁴	\$43,700	\$10,000 x COLA

¹ The authorizing committee must provide prior authorization specifying the amount the committee may spend.

² VAP means voting age population.

³ COLA means cost-of-living adjustment. The applicable COLA is 4.36663.

⁴ American Samoa, the District of Columbia, Guam, the Virgin Islands and the Northern Mariana Islands elect Delegates; Puerto Rico elects a Resident Commissioner.

Coordinated Party Expenditure Limits for 2009 General Election Senate Nominees

State	Voting Age Population (in thousands)	Expenditure Limit
Alabama	3,540	\$309,200
Alaska*	506	\$87,300
Arizona	4,793	\$418,600
Arkansas	2,153	\$188,000
California	27,392	\$2,392,400
Colorado	3,732	\$326,000
Connecticut	2,689	\$234,900
Delaware*	667	\$87,300
Florida	14,324	\$1,251,100
Georgia	7,137	\$623,300
Hawaii	1,003	\$87,600
Idaho	1,111	\$97,000
Illinois	9,722	\$849,100
Indiana	4,792	\$418,500
Iowa	2,290	\$200,000
Kansas	2,102	\$183,600
Kentucky	3,261	\$284,800
Louisiana	3,303	\$288,500
Maine	1,042	\$91,000
Maryland	4,293	\$375,000
Massachusetts	5,071	\$442,900
Michigan	7,613	\$664,900
Minnesota	3,966	\$346,400
Mississippi	2,172	\$189,700
Missouri	4,490	\$392,200
Montana*	747	\$87,300
Nebraska	1,336	\$116,700
Nevada	1,932	\$168,700
New Hampshire	1,023	\$89,300
New Jersey	6,635	\$579,500
New Mexico	1,482	\$129,400
New York	15,082	\$1,317,300
North Carolina	6,979	\$609,500
North Dakota*	498	\$87,300
Ohio	8,756	\$764,700
Oklahoma	2,736	\$239,000
Oregon	2,923	\$255,300
Pennsylvania	9,686	\$846,000
Rhode Island	822	\$87,300
South Carolina	3,414	\$298,200
South Dakota*	606	\$87,300
Tennessee	4,736	\$413,600
Texas	17,601	\$1,537,300
Utah	1,887	\$164,800
Vermont*	492	\$87,300
Virginia	5,946	\$519,300
Washington	5,008	\$437,400
West Virginia	1,428	\$124,700
Wisconsin	4,314	\$376,800
Wyoming*	404	\$87,300

* In these states, which have only one U.S. House Representative, the spending limit for the House nominee is \$87,300. In other states, the limit for each House nominee is \$43,700.

Party Activities

(continued from page 7)

Although these expenditures may be made in consultation with the candidate, only the party committee making the expenditure—not the candidate committee—must report them. (Coordinated party expenditures are reported on FEC Form 3X, line 25, and are always itemized on Schedule F, regardless of amount.)

The accompanying tables on pages 7 and 8 include:

- Information on which party committees have the authority to make coordinated party expenditures;
- The formula used to calculate the coordinated party expenditure limits; and
- A listing of the state-by-state coordinated party expenditure limits.

—Elizabeth Kurland

Contribution Limits

Contribution Limits for 2009-2010

Under the Bipartisan Campaign Reform Act of 2002 (BCRA), certain contribution limits are indexed for inflation every two years, based on the change in the cost of living since 2001, which is the base year for adjusting these limits.¹ The inflation-adjusted limits are:

- The limits on contributions made by persons to candidates and national party committees (2 U.S.C. §441a(a)(1)(A) and (B));
- The biennial aggregate contribution limits for individuals (2 U.S.C. §441a(a)(3)); and
- The limit on contributions made by certain political party committees (2 U.S.C. §441a(h)).

¹ The applicable cost of living adjustment amount is 1.216.

Please see the chart on this page for the contribution amount limits applicable for 2009-2010. The inflation adjustments to these limits are made only in odd-numbered years, and—except for the biennial limit—the limits are in effect for the two-year election cycle beginning on the day after the general election and ending on the date of the next general election. The biennial limit covers the two-calendar-year period beginning on January 1 of the odd-numbered year and ending on December 31 of the even-numbered year.

Please note, however, that these limits do not apply to contributions raised to retire debts from past elections. Contributions may not exceed the contribution limits in effect on the date of the election for which those debts were incurred. 11 CFR 110.1(b)(3)(iii).

The BCRA also introduced a rounding provision for all of the amounts that are increased by the

indexing for inflation.² Under this provision, if the inflation-adjusted amount is not a multiple of \$100, then the amount is rounded to the nearest \$100.

—Elizabeth Kurland

²This provision also affects the indexing of coordinated party expenditure limits and Presidential expenditure limits in 2 U.S.C. §§441a(b) and 441a(d), as well as the disclosure threshold for lobbyist bundled contributions in 2 U.S.C. §434(i)(3)(A).

Reporting

New York Special Election Reporting: 20th District

New York will hold a Special Election to fill the U.S. House seat in New York's 20th Congressional District vacated by Senator Kirsten Gillibrand. The Special General election will be held on March 31, 2009.

Candidate committees involved in this election must follow the report-

ing schedule on page 10. Please note that the reporting period for the Post-General election report spans two election cycles. For this report only, authorized committees must use the Post-Election Detailed Summary Page rather than the normal Detailed Summary Page.

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

Filing Electronically

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the applicable filing deadline. Electronic filers who instead file on paper or submit an electronic report that does not pass the Commission's validation program by the filing deadline will be considered nonfilers and may be subject to enforcement actions, including administrative fines.

Timely Filing for Paper Filers

Registered and Certified Mail. Reports sent by registered or certified mail must be postmarked on or before the mailing deadline to be considered timely filed. A committee sending its reports by registered or certified mail should keep its mailing receipt with the U.S. Postal Service (USPS) postmark as proof of filing because the USPS does not keep complete records of items sent by certified mail. 2 U.S.C. §434(a)(5) and 11 CFR 104.5(e).

Overnight Mail. Reports filed via overnight mail¹ will be considered

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Contribution Limits for 2009-2010

Type of Contribution	Limit
Individuals/Non-multicandidate Committees to Candidates	\$2,400
Individuals/Non-multicandidate Committees to National Party Committees	\$30,400
Biennial Limit for Individuals	\$115,500 ¹
National Party Committee to a Senate Candidate	\$42,600 ²

¹This amount is composed of a \$45,600 limit for what may be contributed to all candidates and a \$69,900 limit for what may be contributed to all PACs and party committees. Of the \$69,900 portion that may be contributed to PACs and parties, only \$45,600 may be contributed to state and local party committees and PACs.

²This limit is shared by the national committee and the Senate campaign committee.

¹“Overnight mail” includes Priority or Express Mail having a delivery confirmation, or an overnight service with which the report is scheduled for next business day delivery and is recorded in the service's on-line tracking system.

New York 20th District Special Election Reporting

Political Committees Involved in the Special General (03/31/09) Must File:

	Close of Books ¹	Reg./Cert./Overnight Mailing Deadline	Filing Deadline
Pre-General	March 11	March 16	March 19
April Quarterly	March 31	April 15	April 15
Post-General	April 20	April 30	April 30
July Quarterly	June 30	July 15	July 15

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

Public Hearing

Commission Holds Public Hearing on Agency Practices and Procedures

The FEC is charged with administering the Federal Election Campaign Act (the Act) and undertakes a number of efforts to provide disclosure of campaign finance activity, encourage voluntary compliance with the provisions of the Act and conduct civil enforcement activities. In the course of addressing its responsibilities, the Commission periodically reviews its programs. The Commission held a public hearing January 14-15 designed to reexamine the FEC's practices and procedures, some of which have been in place since the Commission was founded in 1975. The Commission invited the public to offer suggestions to improve the agency's practices regarding compliance, enforcement, public disclosure, advisory opinions and other matters. The Commission also received written comments from a number of individuals.

Fifteen witnesses testified at the hearing: Jan Witold Baran, Wiley Rein, LLP; Robert F. Bauer, Perkins Coie, LLP; James Bopp, Jr., James Madison Center for Free Speech; Joseph M. Birkenstock, Caplin & Drysdale; David M. Mason, Former FEC Chairman; Scott E. Thomas, Dickstein Shapiro, LLP, Former FEC Chairman; Marc E. Elias, Perkins Coie, LLP; William J. McGinley, Patton Boggs, LLP; Hans A. von Spakovsky, Former FEC Commissioner; Brian G. Svoboda, Perkins Coie, LLP; Laurence E. Gold, Lichtman Trister & Ross, PLLC, AFL-CIO; Robert K. Kelner, Covington & Burling, LLP; Reid Alan Cox, Center for Competitive Politics; Cleta Mitchell, Foley & Lardner, LLP; and Clay Johnson, The Sunlight Foundation.

Reporting

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timely filed if the report is received by the delivery service on or before the mailing deadline. A committee sending its reports by Express or Priority Mail, or by an overnight delivery service, should keep its proof of mailing or other means of transmittal of its reports. 2 U.S.C. §434(a)(5) and 11 CFR 104.5(e).

Other Means of Filing. Reports sent by other means—including first class mail and courier—must be received by the FEC before the Commission's close of business on the filing deadline. 11 CFR 100.19 and 104.5(e).

Forms are available for downloading and printing at the FEC's web site (<http://www.fec.gov/info/forms.shtml>) and from FEC Faxline, the agency's automated fax system (202/501-3413).

48-Hour Contribution Notices

Note that 48-hour notices are required of the participating candidate's principal campaign committee if it receives any contribution of \$1,000 or more per source between

March 12 and March 28, 2009, for the Special General Election.

24- and 48-Hour Reports of Independent Expenditures

Political committees and other persons must file 24-hour reports of independent expenditures that aggregate at or above \$1,000 between March 12 and March 29, 2009, for the Special General Election. This requirement is in addition to that of filing 48-hour reports of independent expenditures that aggregate \$10,000 or more during a calendar year.

Electioneering Communications

The 60-day electioneering communications period in connection with the Special General Election runs from January 30 through March 31, 2009.

—Elizabeth Kurland

Witnesses discussed ways to improve aspects of the Commission's enforcement procedures, such as whether the Commission should make public its internal enforcement procedures and its schedule of penalties and whether respondents in enforcement matters should have the opportunity to address the Commission earlier in the enforcement process. Witnesses also suggested changes to the Commission's procedures for notifying committees of apparent discrepancies in their reports and for issuing new rules and advisory opinions. In addition, witnesses testified regarding ways to make campaign finance information more accessible to committees and to the general public.

Enforcement Procedures

Several witness, including Mr. Baran and Mr. Bopp, believed that the Commission should adopt regulations requiring specific criteria to be included when a person files a complaint in order to reduce frivolous and politically motivated complaints. Mr. Baran testified that requiring complainants to include more specific information would only serve to improve the process. Mr. Cox suggested that the Commission should apply the Act's confidentiality provision regarding open enforcement matters to complainants, and not merely to the FEC.

Other witnesses discussed ways to streamline the enforcement process. Mr. Elias suggested that the Commission could consider adopting a mechanism for the easier settlement of enforcement cases. Mr. von Spakovsky asserted that the Commission should cease sending "letters of admonishment" to respondents since he believes that the Act is very specific with regard to how a person is penalized should they violate the law. Mr. Gold agreed with several commenters that the Commission should formulate a process for requesting a reconsideration of a "reason to believe" finding. Ms. Mitchell argued that the Com-

mission should provide respondents more time to respond to its findings and that the time allotted should be commensurate with the amount of time the agency spends on the action.

A number of those who testified argued that respondents should have greater access to the Commission throughout the enforcement process, whether through oral hearings or other means. For example, Mr. Svoboda suggested that the Commission should set procedures through which a respondent's counsel would be able to file briefs directly with the Commissioners at certain stages in the process. Mr. Cox agreed, stressing the importance of allowing respondents in both audit and enforcement matters to interact directly with the Commission.

Witnesses also debated how much transparency there should be in the Commission's enforcement deliberations. Several witnesses argued that the Commission should make public its internal enforcement procedures and schedule of penalties. Mr. Kelner, for example, suggested that the failure to make the method for calculating penalties public actually lowered the chances that committees will choose to self-disclose violations because they "cannot assess with reasonable confidence the level of fine" that might be assessed. Mr. Thomas, however, argued that the possibility of a large civil penalty acts as a significant deterrent. He suggested that instead of making the actual penalties public, the Commission should instead publish the factors it takes into account when determining a penalty amount. Mr. Birkenstock, in response, suggested to the Commission that its enforcement activities have an "interim rule effect" and that "what we are deterring is political activity."

Witnesses also focused their attention on the audit process. For example, Mr. McGinley expressed concern that "the audit process is almost becoming the fact-finding

process for initiating an enforcement action down the road." He argued that, as a result, committees undergoing an audit needed better opportunities to respond and the Commission needed to clarify whether it was "receiving" an audit report or "adopting" it. Similarly, Mr. Svoboda, Mr. Kelner and Mr. Gold agreed that greater communication during the audit processes between the Commission and the political committee could be beneficial, especially when the committee has a chance to comment on an Interim Audit Report before the Final Audit Report is issued by the Commission.

Witnesses also offered suggestions for the reports analysis process,

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Back Issues of the Record Available on the Internet

This issue of the *Record* and all other issues of the *Record* starting with January 1996 are available on the FEC web site as PDF files. Visit the FEC web site at <http://www.fec.gov/pages/record.shtml> to find monthly *Record* issues.

The web site also provides copies of the *Annual Record Index* for each completed year of the *Record*, dating back to 1996. The *Annual Record Index* list *Record* articles for each year by topic, type of Commission action and, in the case of advisory opinions, the names of individuals requesting Commission action.

You will need Adobe® Acrobat® Reader software to view the publication. The FEC's web site has a link that will take you to Adobe's web site, where you can download the latest version of the software for free.

Public Hearing

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specifically with regard to requests for additional information (RFAs). For example, Mr. Baran identified instances where he believes that the FEC sends out RFAs that are not based on an apparent reporting discrepancy. Mr. Baran explained that such RFAs are especially troubling "because the community believes that one basis for an audit is the frequency and the nature of these so-called RFAs."

Enforcement Determinations and Advisory Opinions

Mr. Bopp, Mr. Baran and Mr. Bauer argued that the Commission's enforcement determinations and advisory opinions can have the effect of creating new, *de facto* regulations. Mr. Bopp argued that the Commission should state clearly

that its enforcement decisions do not set precedent. He argued that the regulated community could only rely on two forms of guidance: the statute and regulations, and if their "fact pattern fits a safe harbor that has been adopted through an advisory opinion." Mr. Bauer, on the other hand, argued that sometimes a pattern of enforcement determinations by the Commission sets "standards of conduct" or a "prohibited zone" for specific activities that does function as a rule, and that committees are correct to interpret the Commission's enforcement determinations in this way. Mr. Bauer argued that when this begins to happen the Commission should formalize these standards of conduct in a rulemaking.

Some witnesses, such as Mr. Birkenstock, Mr. Elias, Mr. von Spakovsky and Mr. Cox, argued that when advisory opinions are being considered by the Commission, a requestor's counsel should be allowed to answer Commission inquiries during an open meeting. Mr. Mason, for example, suggested that in some instances hearings could be held before an opinion is issued if Commissioners believe it would be useful, and in other cases when a requestor's counsel is at an open meeting where an advisory opinion is discussed, the Commission should have "a procedure where a Commissioner can just ask and have them come up and answer a question." Mr. Thomas indicated that he believed that the Commission could establish a pilot program to implement this proposal, but that the Commission should limit the instances in which a requester could make an oral presentation, which would be subject to Commission approval. Mr. Birkenstock, Mr. Kelner and Mr. Mason all suggested that the Commission should have to consent to such appearances.

Public Disclosure

Mr. Johnson of the Sunlight Foundation testified in order to offer suggestions on how to make the Commission's data and web site more accessible and user-friendly. For example, Mr. Johnson suggested that language on the web site be tailored to speak to citizens who may not be familiar with FEC terms. He stated that since it is the Commission's mandate to disclose information, the Commission should also examine ways to make the FEC database of campaign finance reports and information accessible to outside organizations (such as search engines) to provide it to their individual readerships.

FEC Accepts Credit Cards

The Federal Election Commission now accepts American Express, Diners Club and Discover Cards in addition to Visa and MasterCard. While most FEC materials are available free of charge, some campaign finance reports and statements, statistical compilations, indexes and directories require payment.

Walk-in visitors and those placing requests by telephone may use any of the above-listed credit cards, cash or checks. Individuals and organizations may also place funds on deposit with the office to purchase these items. Since pre-payment is required, using a credit card or funds placed on deposit can speed the process and delivery of orders. For further information, contact the Public Records Office at 800/424-9530 or 202/694-1120.

FEC Web Site Offers Podcasts

In an effort to provide more information to the regulated community and the public, the Commission is making its open meetings and public hearings available as audio recordings through the FEC web site, as well as by podcasts. The audio files, and directions on how to subscribe to the podcasts are available under *Audio Recordings* through the *Commission Meetings* tab at <http://www.fec.gov>.

The audio files are divided into tracks corresponding to each portion of the agenda for ease of use. To listen to the open meeting without subscribing to the podcasts, click the icon next to each agenda item. Although the service is free, anyone interested in listening to podcasts must download the appropriate software listed on the web site. Podcast subscribers will automatically receive the files as soon as they become available—typically a day or two after the meeting.

Additional Information

A transcript of the hearing is available at <http://www.fec.gov/law/policy/enforcement/2009/01141509hearingtranscript.pdf>.

Written comments submitted in response to the Commission's request are available at <http://www.fec.gov/law/policy/enforcement/2009/comments/comments.shtml>.

—Myles Martin

Commission

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200 applicants for the position. He received his B.S. degree in American History from the United States Air Force Academy and his M.A. degree in International Affairs from Oklahoma University.

The new Chief Financial Officer, Mary Sprague, has been serving as Budget Director of the Public Building Service (PBS) of the General Services Administration, which provides oversight of over \$9 billion in budget assets. Ms. Sprague previously served as Chief Financial Officer of the National Capital Region of PBS, which is PBS's largest region, with over 1400 employees and a real estate inventory of approximately 95 million rentable square feet. Ms. Sprague has also served as a Chief Election Judge for the Montgomery County, Maryland, Board of Elections, and has served in that post since 2000. She received her B.A. degree from Coe College in Cedar Rapids, Iowa, and her M.A. in Public Administration from the University of Colorado.

Elimination of Enforcement Backlog

Because the Commission was comprised of only two Commissioners from January 1 to June 10 of last year, it could not take any formal action on enforcement or other Commission matters, and, accordingly, a significant backlog of enforcement matters was awaiting the Commissioners when they were reconstituted

on June 10. Following the consideration of three remaining matters on March 18, the Commission will have formally acted on all those backlog matters, and, in addition, will be nearly current on all the rest submitted to the Commission for consideration since that time. The balance of those circulated by the Office of General Counsel for Commissioner determination should be completed by the end of April, and at that time the Commission should be fully current on all enforcement matters presented to it for formal action. This process is due to the heightened pace commenced last year under the leadership of then-Chairman Don McGahn, and which has continued this year, with the concurrence and extra effort of all the Commissioners and the staff of the Office of General Counsel, led by Tommie Duncan, and Audit Division, led by Joe Stoltz.

Website Improvement Initiative

While the Commission has always been interested in learning of ways to improve its website, the Commission will initiate a more formal process to receive public input, opinions and analyses of website experts on how we can make the Commission's website the best disclosure mechanism possible. To do that, the Commission will be asking for suggestions, recommendations and observations from all users. We hope to initiate the process by a public notice in the Federal Register within the next few weeks. Please begin to give some thought on any suggestions you might have on how the Commission might make the website more user-friendly, more comprehensive, more intuitive, more educational, and overall, more useful to you and the public generally.

—Steven T. Walther
Chairman

Enforcement Query System Available on FEC Web Site

The FEC continues to update and expand its Enforcement Query System (EQS), a web-based search tool that allows users to find and examine public documents regarding closed Commission enforcement matters. Using current scanning, optical character recognition and text search technologies, the system permits intuitive and flexible searches of case documents and other materials.

Users of the system can search for specific words or phrases from the text of all public case documents. They can also identify single matters under review (MURs) or groups of cases by searching additional identifying information about cases prepared as part of the Case Management System. Included among these criteria are case names and numbers, complainants and respondents, timeframes, dispositions, legal issues and penalty amounts. The Enforcement Query System may be accessed on the Commission's web site at www.fec.gov.

Currently, the EQS contains complete public case files for all MURs closed since January 1, 1999. In addition to adding all cases closed subsequently, staff is working to add cases closed prior to 1999. Within the past year, Alternative Dispute Resolution (ADR) cases were added to the system. All cases closed since the ADR program's October 2000 inception can be accessed through the system.

Outreach

Washington, DC, Conference for Corporations and Their PACs

The Commission will hold its annual conference in Washington, DC, on April 2-3, 2009, for corporations and their PACs. Commissioners and staff will conduct a variety of technical workshops on 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 web site at <http://www.fec.gov/info/conferences/2009/corporate09.shtml>.

FEC Conference Schedule for 2009

Conference for Corporations and their PACs

April 2-3, 2009
Westin City Center
Washington, DC

Conference for Trade Associations, Membership Organizations, Labor Organizations and their PACs

May 21-22, 2009
Omni Shoreham
Washington, DC

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

September 15-16, 2009
Hyatt Regency
Chicago, IL

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

October 28-29, 2009
Sheraton at Fisherman's Wharf
San Francisco, CA

Hotel Information. The conference will be held at the Westin Washington, DC City Center hotel in Washington, DC, near the McPherson Square (Blue/Orange lines) or Farragut North (Red Line) Metro stations. Attendees are responsible for making their own hotel reservations. To make hotel reservations call 1-800-937-8461 or visit the hotel web site (<http://www.starwoodmeeting.com/Book/FEC>) and identify yourself as attending the Federal Election Commission conference. The hotel will also charge the prevailing sales tax, currently 14.5 percent. Valet parking is available for \$15/day and \$35/night. The hotel is walking distance from the Metro subway; public transportation is recommended. 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 \$499, which covers the cost of the conference, materials and meals. A \$51 late fee will be added to registrations received after February 27. Complete registration information is available online at <http://www.fec.gov/info/conferences/2009/corporate09.shtml>.

FEC Conference Questions

Please direct all questions about conference registration and fees to Sylvester Management Corporation (Phone: 1-800/246-7277; e-mail: toni@sylvestermanagement.com). For questions about the conferences and workshops in 2009, call the FEC's Information Division at 1-800/424-9530, (or send an e-mail to Conferences@fec.gov).

—Kathy Carothers

Roundtable on New Lobbyist Bundling Disclosure Rules

On April 29, 2009, the Commission will host a roundtable workshop on new rules that require federal candidates' authorized committees, political party committees and Leadership PACs to disclose information about lobbyists, registrants and their PACs who bundle contributions over certain threshold amounts. See the related article on page 1. Recordkeeping requirements for committees affected by these rules will begin on March 19, and, depending on their filing schedules, affected committees could file their first reports under the new rules as early as May 20. The roundtable workshop will address the new rules, reporting schedule and reporting requirements, including the requirements for filing new FEC Form 3L.

The workshop will be held from 9:30 to 11:00 a.m. at the Federal Election Commission, 999 E St. NW, Washington, D.C. The registration fee is \$25. Attendance is limited, and registration is accepted on a first-come, first served basis.

Pre-registration and payment is required. A full refund will be made for all cancellations received before 5 p.m. on April 24. No refund will be made for cancellations received after that date and time.

Complete registration information is available on the FEC web site at <http://www.fec.gov/info/outreach.shtml#roundtables> and from Faxline, the FEC's automated fax system (202/501-3414). For more information, please call the Information Division at 800/424-9530, or locally at 202/694-1100.

—Kathy Carothers

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Updated Electronic Format and FECFile Filing Software

The Commission has updated its electronic filing format to Version 6.3. On March 10, 2009, FECFile Version 6.3.1.1, supported by the new format, became available for download from the FEC web site at <http://www.fec.gov/elecfil/updatelist.html>. The new format reflects recent updates to FEC Form 1 that require Lobbyist/Registrant PACs and Leadership PACs to identify themselves as such on their Statements of Organization filed with the FEC (see related article, page 1). More information on these requirements is available on the FEC web site at <http://www.fec.gov/info/guidance/hlogabundling.shtml>.

Committees using commercial software should contact their vendors for more information about the latest software release.

Please note that, for electronic filers, any report filed after March 10, 2009, must be filed in Format Version 6.3 (the new version). Reports filed in previous formats will not be accepted. Thus, for example, all electronic filers must file their 2009 March Monthly and April Quarterly reports in Format Version 6.3.

The Commission has additionally released a new paper version of FEC Form 1 to allow paper filers to comply with the new requirements. The paper version of the form is available on the FEC web site at <http://www.fec.gov/pdf/forms/fecfrm1.pdf>.

The paper version of FEC Form 1 may only be used by committees not required to file electronically with the FEC.

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