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Regulations

Internet Final Rules

The Commission has approved regulations that narrowly expand the definition of “public communication” to include certain types of paid Internet content. This change complies with the district court’s determination in *Shays v. FEC* that the Commission could not exclude all Internet communications from its “public communication” definition.

As detailed below and in the accompanying 800-line article, the revised rules also modify the Commission’s disclaimer requirements, add an exception for uncompensated individual Internet activities, revise the “media exemption” to make clear that it covers qualified online publications and add new language regarding individuals’ use of corporate and labor organization computers and other equipment for campaign-related Internet activities.

Background

The Bipartisan Campaign Reform Act of 2002 (BCRA) requires that state, district and local political party committees and state and local candidates use federal funds to pay for any “public communication” that promotes, attacks, supports or opposes (PASOs) a clearly identi-

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800 Line

Internet Communications and Activity

On March 27, 2006, the Commission approved new regulations governing certain types of Internet communications. The rules will take effect on May 12, 2006. The questions and answers that follow address not only those new regulations, but also past Commission precedents regarding use of the Internet in connection with federal elections. Copies of both the new regulations and the cited advisory opinions (AOs) are available via the FEC’s web site at <http://www.fec.gov>.

Internet Activity Conducted by Individuals

Can I use my computer for political activity in connection with federal elections? How about a library computer, school computer or neighbor’s computer?

Yes. An uncompensated individual or group of individuals may engage in Internet activities for the purpose of influencing a federal election without restriction. The activity would not result in a “contribution” or an “expenditure” under the Act, and would not trigger any registration or reporting requirements with

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Regulations

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fied federal candidate. Congress defined “public communication” as a communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.” 2 U.S.C. §421(22). Based on that definition, the Commission expressly excluded all Internet communications from its regulatory definition of the term.

In its other BCRA rulemakings, the Commission incorporated the term “public communication” into provisions on generic campaign activity, coordinated communications and disclaimer requirement. By excluding Internet content from the definition of public communication, the Commission effectively

exempted most Internet activity from those regulations. The term was also used in the definition of an “agent” of a state or local candidate and in certain allocation rules governing spending by SSFs and nonconnected committees. 11 CFR 300.2(b) and 106.6(f)

On October 21, 2005, the U.S. District Court for the District of Columbia in *Shays* rejected the Commission’s decision to exclude all Internet communications from the definition of “public communication.” 337 F.Supp. 28 (D.D.C. 2004), aff’d, 414 F.3d 76 (D.C. Cir. 2005). The court concluded that some Internet communications do fall within the scope of “any other form of general public political advertising” and, therefore, required the Commission to determine which Internet communications were encompassed by that term.

The Commission issued a Notice of Proposed Rulemaking (NPRM) on March 24, 2005, seeking comment on possible rule changes and held public hearings on June 28 and 29, 2005. For more information, see the May 2005 *Record*, page 1 and August 2005 *Record*, page 2.

Final Rules

Public Communication. While the new regulations continue to exempt most Internet communications, those placed on another person’s web site for a fee are now considered “general public political advertising” and, therefore, qualify as “public communications.” By contrast, unpaid Internet communications, including blogs, e-mail and a person’s web site, are not.

Coordination. Content that a person places on one’s own web site is not included in the definition of “public communication,” even if it includes republished campaign material. Therefore, their republication of a candidate’s campaign materials on their own web site, blog or e-mail does not constitute a “coordinated communication.” However, when a

person pays a fee to republish campaign materials on another person’s web site, the republication would qualify as a “public communication.”

Disclaimer Requirements. Under the new rules, political committees must include disclaimers on their web sites and their widely-distributed e-mail, i.e., more than 500 substantially similar messages, regardless of whether the e-mail messages are solicited or unsolicited. Others are not required to include a disclaimer on their own web site or e-mail messages. Persons other than political committees need only include disclaimers on paid Internet advertising that qualifies as a “public communication” and then only if the communication includes certain content such as a message expressly advocating the election or defeat of a clearly identified federal candidate. 11 CFR 110.11.

Uncompensated Individual Internet Activities. Online campaign activity by uncompensated individuals or groups of individuals is exempt from the definitions of contribution and expenditure. 11 CFR 100.94. This exemption applies whether the individual acts independently or in coordination with a candidate, authorized committee or political party committee. Exempt Internet activities include:

- Sending or forwarding election-related e-mail messages;
- Providing a hyperlink to a campaign or committee’s web site;
- Engaging in campaign-related blogging;
- Creating, maintaining or hosting an election-related web site; and
- Paying a nominal fee for a web site or other forms of communication distributed over the Internet.

Media Exemption. In general, a media entity’s costs for carrying *bona fide* news stories, commentary and editorials are not considered “contributions” or “expenditures,”

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

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

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unless the media facility is owned or controlled by a federal candidate, political party or federally registered political committee. See 2 U.S.C. §431(9)(B)(i) and 11 CFR 100.73 and 100.132. The new regulations clarify that the exemption, commonly known as the “news story exemption” or the “media exemption,” extends to media entities that cover or carry news stories, commentary and editorials on the Internet, including web sites or any other Internet or electronic publication. See also AOs 2005-16, 2004-7 and 2000-13.

The media exemption applies to the same extent to entities with only an online presence as those media outlets that maintain both an offline and an online presence. See the E&J for revised regulations. 11 CFR 100.73 and 100.32.

Corporate and Labor Internet

Federal Register

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

Notice 2006-7

Definition of Federal Election Activity (71 FR 14357, March 22, 2006)

Notice 2006-8

Internet Communications (71 FR 18589, April 12, 2006)

Notice 2006-9

Filing Dates for the New Jersey Special Election in the 13th Congressional District (71 FR 19510, April 14, 2006)

Activities. Commission regulations have long permitted stockholders and employees of a corporation and members of a union to make occasional, isolated or incidental use of the organization’s facilities for voluntary political activity. The new regulations clarify that employees may use their work computers at the workplace and elsewhere to engage in political Internet activity, as long as that use does not prevent them from completing their normal work or increase the overhead or operate expenses for the corporation or labor organization. The organization may not condition the availability of its space or computers on their being used for political activity or to support or oppose any candidate or political party. 11 CFR 114.9.¹

State and Local Party Activities.

If a party committee pays to produce content that would qualify as federal election activity (FEA)—e.g., a video that PASOs a federal candidate—and pays to post that content on another person’s web site, then the entire costs of production and publication of the content must be paid for with federal funds. 11 CFR 100.24. The costs of placing content on the party committee’s own web site, however, are not restricted to federal funds. See the E&J for revised 11 CFR 100.26.

The final rules were published in the April 12, 2006 *Federal Register* (71 FR 18589) and will go into effect on May 12, 2006. The final rules are available on the FEC web site at http://www.fec.gov/law/law_rulemakings.shtml and from the FEC Faxline 202/501-3413.

—*Carlin E. Bunch*

¹ *The new regulations do not affect the existing regulations concerning communications by such organizations to the restricted class or to the general public. 11 CFR 114.9(e).*

E&J for Interim Final Rule on Definition of FEA

On February 9, 2006, the Commission approved an interim final rule regarding voter identification and get-out-the-vote (GOTV) activities limited to nonfederal elections. The Commission is seeking public comment on all aspects of the interim final rule and may amend the final rule as appropriate in response to comments received.

Background

Under the Bipartisan Campaign Reform Act of 2002 (BCRA), voter identification, GOTV activity and generic campaign activities conducted “in connection with an election in which a candidate for federal office appears on the ballot,” constitute federal election activity (FEA), and are subject to certain funding limits and prohibitions.

In response to the district court decision in *Shays v. FEC*, the Commission published a Notice of Proposed Rulemaking (NPRM) that proposed several changes to the definition of FEA, including exceptions for activities conducted in proximity to nonfederal elections. After reviewing public comments and testimony given at an August 4, 2005, public hearing, the Commission approved Final Rules and Explanation and Justification (E&J) on the Definition of Federal Election Activity (2006 Final Rules). The Commission decided not to incorporate into those final rules any of the FEA nonfederal time period exceptions proposed in the NPRM but instead adopted a more narrowly focused interim final rule.

Interim Final Rule

Initially, the Commission included within its definition of FEA voter registration, GOTV and generic campaign activity conducted between the filing deadline for access to the primary election ballot and the date of the general election or, in states that do not conduct prima

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ries, beginning January 1 of each even-numbered year. The regulation provided an exemption to this definition for an association of state or local candidates conducting activity in connection with a nonfederal election, but the Commission eliminated that exemption in order to comply with the district court decision in *Shays*. As a result, political campaign activity relating solely to nonfederal elections scheduled in 2006 will fall within the FEA time period. To avoid capturing activity that relates solely to nonfederal elections, the interim final rule distinguishes between voter identification and GOTV activities that are FEA and those activities that are not FEA, because they do not involve elections in which federal candidates are on the ballot.

For an activity to be covered by the interim final rule:

- The nonfederal election must be held on a date separate from any federal election and the communication or activity must be in connection with the nonfederal election; and
- The activity or communication must refer exclusively to:
 - Nonfederal candidates on the ballot;
 - Ballot initiatives or referenda; or
 - The date, time and polling locations of the nonfederal election.

Because generic campaign activity, by definition, promotes a political party and does not promote a federal or nonfederal candidate, such activity would not be covered by the interim final rule. The Commission seeks comment on whether this is an appropriate determination. The Commission is soliciting comments on all aspects of the interim final rule and may amend the interim rule as appropriate in response to comments received.

Comments

The E&J for the Interim Final Rule appeared in the *Federal Register* on March 22, 2006 and is available on the FEC web site at http://www.fec.gov/law/law_rulemakings.shtml#definition_fea. All comments must be addressed to Ms. Mai T. Dinh, Assistant General Counsel, must be submitted in e-mail, fax, or paper copy form and must include the full name and postal address of the commenter. Commenters are strongly encouraged to submit comments by e-mail at either municipal.election@fec.gov or submitted through the Federal eRegulations Portal at www.regulations.gov. If e-mail comments include an attachment, the attachment must be in Adobe Acrobat or Microsoft Word format. Faxed comments must be sent to 202/219-3923, with paper copy follow-up. Paper copy comments and paper copy follow-up of faxed comments must be sent to the Federal Election Commission, 999 E. Street, NW, Washington, DC 20463.

—Amy Pike

800 Line

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the FEC. This exemption applies to individuals acting with or without the knowledge or consent of a campaign or a political party committee.¹ 11 CFR 100.94 and 100.155. Possible Internet activities include, but are not limited to, sending or forwarding electronic mail, providing a hyperlink to a web site, creating, maintaining or hosting a web site and paying a nominal fee for the use of a web site. 11 CFR 100.94(b).

¹ Because the activity is exempt from the definitions of “contribution” and “expenditure,” a group of individuals that spends more than \$1,000 on such activity does not trigger political committee status under the Act and FEC regulations. See 11 CFR 100.5.

Please note that these exemptions apply regardless of whether the individual owns the computer in use.

What are the rules for sending personal e-mail regarding political topics or federal elections?

Basically, there are no rules for individuals. Individuals may send unlimited e-mail on any political topic without identifying who they are or whether their messages have been authorized by any party or campaign committee. 11 CFR 110.11(a).

May I post comments to a blog in connection with a federal election?

Yes. Uncompensated blogging, whether done by individuals or a group of individuals, incorporated or unincorporated, is exempt from regulation. See 11 CFR 100.94 and 100.155. This exception applies even in those cases where a nominal fee is paid. See also *How has the Commission applied the Act to online news media?* under Press Entities, on page 6.

Are the rules different if I pay to place an ad on someone else’s web site?

Yes. Internet communications placed on another person’s web site for a fee are considered “general public political advertising” and are thus “public communications” under the law. 11 CFR 100.26. As such, paying to place a communication on another person’s web site may result in a contribution or expenditure under the Act. Other regulations regarding coordinated communications, 11 CFR 109.21 and 109.37, and disclaimer requirements, 11 CFR 110.11(a), would also apply.

May I use my work computer for online political activity?

Yes, this is permissible subject to your employer’s rules for personal use of computers and Internet access and as long as you are not compensated for the activity. 11 CFR 100.94 and 114.9(a) and (b). See *May a corporation or union allow its*

employees or members to use their work computers for individual volunteer activity? under Use by Corporations/Labor Organizations/Trade Associations, below.

Internet Activity Conducted by Federal Political Committees

Is a disclaimer required on e-mail or our web site?

Yes. The Act and regulations require FEC-registered political committees to place disclaimers on their public web sites. Moreover, if a political committee sends more than 500 substantially similar e-mail, each message must include a disclaimer. 11 CFR 110.11(a). For specific disclaimer requirements, see 11 CFR 110.11(b) and the Commission's brochure "Special Notices on Political Ads and Solicitations," available online at <http://www.fec.gov/pages/brochures/notices.shtml>.

Do the new regulations affect online fundraising by our committee?

No. Over the years, the Commission has issued several advisory opinions concerning online fundraising by political committees. The AOs make it clear that political committees must adapt online fundraising to comply with the Act's recordkeeping and reporting provisions.

First, committees using the Internet for fundraising must make "best efforts" to obtain and report the identification of donors who contribute more than \$200 during a calendar year. Committees must maintain electronic records and contributor data for three years after the date on which it reported the contributions. AOs 1999-22 and 1995-9.

Second, to avoid receiving prohibited contributions, web sites soliciting contributions in connection with a federal election must inform potential contributors of all of the Act's prohibitions, including the prohibitions on contributions from corporations, labor organizations, federal

government contractors and foreign nationals,² and the restrictions at 11 CFR 110.19 on contributions from minors. AOs 1999-22, 1999-9 and 1995-9 contain detailed examples of Commission-approved language and mechanisms for screening contributors.

Third, in several AOs, the Commission has said that online contributions may be made via credit card or electronic checks. Such contributions are acceptable for publicly funded presidential campaigns and are matchable provided that the correct documentation is provided to the Commission. See 11 CFR 9034.2(c)(8) and AOs 1999-36, 1999-22, 1999-9 and 1995-9. The Commission has also permitted businesses to administer online fundraising for political committees, so long as they provide their services at the usual and normal charge and in their ordinary course of business. See below.

Finally, separate segregated funds established by corporations, labor organizations or trade associations should consult *Are there special rules concerning online fundraising for corporate/labor/trade association PACs?* under Internet Activity by Corporations/Labor Organizations/Trade Associations, below.

Internet Activity Conducted by Corporations/Labor Organizations/Trade Associations

Our corporation normally provides commercial services online; may we do so for candidates and political committees?

Yes, this is permissible as long as the corporation charges the usual and normal fee for its services. Failure to do so could result in a prohibited contribution. For example, in AO 2004-6, an online service offering a web platform for arranging local gatherings was permitted to provide both its free and fee-based services to federal candidates and political

committees as long as it did so on the same terms it offered to all similarly situated persons in the general public. In contrast, in AO 1996-2, the Commission concluded that a corporation could not provide online accounts—for which it normally charged a fee—to candidates free of charge.

May our corporation/labor union/trade association send out an e-mail to endorse a federal candidate or place an endorsement on its web site?

It depends. As has long been the case, a corporation, union or trade association may only direct express advocacy communications to its restricted class. So, if the organization addressed its e-mail endorsing a federal candidate only to individuals within its restricted class, it would be permissible. By contrast, the organization generally cannot place endorsements or solicitations for a candidate on its web site, unless access to those portions of the site is limited to members of the restricted class.³ See AO 1997-16, 2 U.S.C. §441b(b)(2)(A) and 11 CFR 114.3.

Are there special rules concerning online fundraising for corporate/labor/trade association PACs?

Yes. Since a corporate/labor/trade association PAC may only solicit contributions from its restricted class, access to online solicitations must be limited to members of that group, e.g., password protected.⁴ 2 U.S.C. §441b(b)(4). Alternatively, a corporation/labor organization/trade association could maintain an e-mail listserv—i.e., mailing list—to send PAC solicitations to members of the organization's restricted class. AO 2000-07.

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³ *If the organization routinely posts press releases on its web site, it may post a release announcing its endorsement of a federal candidate in the same manner.* 11 CFR 114.4(c)(6).

⁴ *See 11 CFR 114.5(g), 114.7(a) and 114.8(c).*

² *See 2 U.S.C. §§441b, 441c and 441e.*

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May a corporation or union allow its employees or members to use their work computers for individual volunteer activity?

Yes, a corporation or a labor organization may permit its employees, shareholders, officials and members to use its computer and Internet facilities for individual volunteer Internet activity, without making a prohibited contribution. This exemption is contingent on the individual completing the normal amount of work for which the employee is paid, or is expected to perform, that the activity would not increase the overhead or operating costs of the organization, and that the activity is not coerced. The organization may not condition the availability of the Internet or the computer on their being used for political activity or for support for or opposition to any particular candidate or political party. Revised 11 CFR 114.9(a)(2) and (b)(2).

Activity Conducted by Press Entities and Bloggers

How has the Commission applied the Act to online news media?

Under the Act and FEC regulations, a media entity's costs for carrying news stories, commentary and editorials are not considered "contributions" or "expenditures." See 2 U.S.C. §431(9)(B)(i) and 11 CFR 100.73 and 100.132. This exemption, commonly known as the "news story exemption" or the "media exemption" now extends to media entities that cover or carry news stories, commentary and editorials on the Internet, including web sites or any other Internet or electronic publication. See also AOs 2005-16, 2004-7 and 2000-13.

The media exemption applies to the same extent to entities with only an online presence as those media outlets that maintain both an offline and an online presence. See the

E&J for revised regulations 11 CFR 100.73 and 100.32.

Are bloggers considered press entities?

Bloggers and others who communicate on the Internet are entitled to the press exemption in the same way as traditional media entities. However, the Commission has decided not to change its rules regarding the media exemption so as to specifically include *all* blogging activity within the "media exemption." Many bloggers may also be entitled to the new Internet activities exemptions for individuals. 11 CFR 100.94 and 100.155. This includes incorporated blogs that are wholly-owned by an individual, are engaged primarily in Internet activities and derive a substantial portion of their income from their Internet activities. See the E&J for revised 11 CFR 100.73 and 100.32 and AO 2005-16. Whether covered by the media exemption or the individual activity exemption, blogging will generally not be subject to FEC regulation.

—Dorothy Yeager

Advisory Opinions

Advisory Opinion 2006-3: Common Username and Password Acceptable for SSF Web Site

A corporation may provide a link from its government relations intranet site to its PAC's password-protected web site. To access the PAC's site, members of the restricted class may all use the same username and password.

Background

The Federal Election Campaign Act (the Act) prohibits corporations from making a contribution or expenditure in connection with federal elections. However, a corporation's

separate segregated fund (SSF or PAC) may solicit voluntary contributions at any time from its restricted class: the corporation's executive and administrative personnel, its stockholders and the families of such persons. 2 U.S.C. 441b(b)(4)(A)(i), 11 CFR 114.5(g)(1).

Analysis

The Whirlpool Corporation maintains an intranet government relations web site that is only accessible to its current employees. The company proposes to provide a link from that site to the Whirlpool Corporation Political Action Committee (WCPAC) web site. The company will include an authorization screen that notifies employees that only members of the restricted class may enter the WCPAC site and that any contributions the PAC receives from donors outside that class will be returned. Members of the restricted class must enter a username and password to enter the site.

The Commission determined that Whirlpool's plan to use a common username and password for all current employees in the restricted class sufficiently limits access to prevent impermissible solicitations. However, Whirlpool should make best efforts to ensure that the common username and password is not disseminated beyond the restricted class. The link to the WCPAC web site on the Whirlpool intranet site and the authorization screen do not constitute solicitations for contributions to the WCPAC and are, therefore, permissible.

—Carlin E. Bunch

Advisory Opinion 2006-4: Candidate Contributions to Ballot Initiative Committee

The Tancredo for Congress Committee may donate funds to Defend Colorado Now (DCN), a state ballot initiative committee. However, donations in the proposed amounts would constitute "financing" of

DCN by the Tancredo Committee. As a result, DCN would be subject to the soft money fundraising ban that applies to federal candidates and their campaigns. The Tancredo committee may produce and disseminate communications in which Representative Tancredo endorses the ballot initiative, but any polling data that DCN gives to the Tancredo committee would be an in-kind contribution subject to the limits of the Federal Election Campaign Act (the Act).

Background

The Act permits federal candidates to use contributions in several ways, including “otherwise authorized expenditures in connection with the campaign for federal office of the candidate” and “for any other lawful purpose.” 2 U.S.C. 439a(a)(1) and (6) and 11 CFR 113.2(a). According to Advisory Opinion 2004-29, donation of campaign funds to a ballot initiative committee that shares the policy goals of the candidate is considered to be in connection with one’s campaign for federal office and is, therefore, permissible.

The Act also states that any entity “directly or indirectly established, financed, maintained, or controlled” by a federal candidate or officeholder shall not solicit, receive, direct, transfer or spend funds in connection with an election for federal or nonfederal office unless these funds comply with the contribution limits and source prohibitions of the Act.

Analysis

The Tancredo for Congress Committee proposes to contribute campaign funds to DCN. It asks if Representative Tancredo would be considered to have “financed” DCN if it gave DCN 50% or 25% of DCN’s total receipts, up to a maximum of \$50,000, or if it gave vendors up to \$50,000 for collecting signatures to qualify the initiative for the ballot. Through the end of 2005, DCN had over \$9,000; it had

received pledges for an additional \$45,000, but had not yet received these funds.

The Commission considers the ten factors contained in 11 CFR 300.2(c)(2)(i)-(x), and any other relevant factors, in the context of the overall relationship between the two entities to determine whether the ballot initiative committee is directly or indirectly established, financed, maintained, or controlled by the candidate committee. The key factor in this case is whether the Tancredo committee would provide funds “in a significant amount” to DCN.

Donations from the Tancredo committee to DCN of either 50% or 25% of DCN’s total receipts would represent substantial “seed money” and would result in DCN depending in large part on the Tancredo committee for its initial existence. Given the overall relationship between DCN and the Tancredo committee, the Commission finds that the proposed donations are significant and would result in DCN being “financed” by the Tancredo committee. The third option of providing \$50,000 to vendors for collecting signatures to qualify the initiative for the ballot would be the same as contributing \$50,000 to DCN, and therefore is subject the same analysis as donations made directly to DCN.

Tancredo for Congress Committee may use campaign contributions to pay for communications in which Representative Tancredo endorses the ballot initiative, since an advertisement in which a candidate endorses a ballot initiative on an issue with which they are closely associated is an expenditure in connection with a campaign for federal office.

Lastly, the Tancredo committee may accept polling data from DCN, but the provision of that data would constitute a contribution from DCN to the Tancredo committee and is subject to the prohibitions and limitations of the Act. 11 CFR 110.1(b)(1).

—Carlin E. Bunch

Advisory Opinion Request

AOR 2006-12

Union affiliation during transition period pending full merger (International Association of Machinists and Aerospace Workers and the Transportation Communications International Union/IAM, March 2, 2006)

Court Cases

New Litigation

CCL v. FEC

On April 3, 2006, the Christian Civil League of Maine, Inc. (CCL) filed a complaint with the U.S. District Court for the District of Columbia asking the court to find the statutes and regulations regarding electioneering communications to be unconstitutional as applied to broadcast advertisements that CCL contends constitute “grassroots lobbying.” CCL further requests preliminary and permanent injunctions enjoining the FEC from enforcing these regulations against CCL and payment of attorneys’ fees.

CCL is a nonprofit corporation group organized under 501(c)(4) of the Internal Revenue code. It claims that it is not a qualified nonprofit corporation within the meaning of 11 CFR 114.10. CCL seeks to air a radio advertisement and other broadcast communications that are electioneering communications (EC) under the Federal Election Campaign Act (the Act). The Act prohibits corporations from distributing or financing ECs with corporate treasury funds.

CCL contends that its communications cannot constitutionally be regulated because they are “grassroots lobbying” communications. CCL believes that it is constitutionally entitled to pay for its planned advertisements with general corporate funds.

—Carlin E. Bunch

Compliance

MURs 5305 & 5398: Corporate and Excessive Contributions in the Name of Another

In March 2006, the Commission announced conciliation agreements in two enforcement cases (Matters Under Review or MURs) that involved prohibited corporate contributions and contributions in the name of another. Respondents in MURs 5305 and 5398 agreed to pay civil penalties totaling \$159,000 and \$200,000, respectively for violations of the Federal Election Campaign Act (the Act).

Background

The Act prohibits corporations from making contributions or expenditures, and also prohibits contributions in the name of another, e.g., reimbursing someone for a contribution they made. Likewise, it is unlawful for any person knowingly to permit their name to be used to make a contribution in the name of another. At the time of these violations, an individual or partnership could contribute no more than \$1,000 per election to a candidate.¹

MUR 5305

James M. Rhodes is president of Rhodes Design and Development Corporation (RDDC), owns Bravo, Inc., and has substantial equity interest in Rhodes Ranch General Partnership. In 2002, Mr. Rhodes asked two RDDC employees, James A. Bevan, chief financial officer, and Nadine Giudicessi,

corporate controller, to make contributions to the Dario Herrera and Harry Reid campaigns and to ask management-level staff at all three companies to contribute as well. Mr. Rhodes specified how much the employees should contribute and stated that everyone who gave would be reimbursed for their contribution. Mr. Bevan and Ms. Giudicessi asked 12 employees and two spouses for contributions for the Herrera Committee; they asked three employees for contributions to the Reid Committee.

Mr. Rhodes and the employees' contributions to the Herrera Committee totaled \$27,000. The contributions to the Reid Committee totaled \$10,000. Mr. Rhodes used funds from RDDC, Bravo and Rhodes Ranch corporate bank accounts to reimburse these contributions. RDDC, Bravo and Rhodes Ranch reimbursed the employees with cash. This use of corporate and partnership funds to reimburse donors resulted not only in prohibited contributions in the names of others, but also prohibited corporate contributions and excessive contributions.

Conciliation Agreements. Mr. Rhodes, RDDC, Bravo and Rhodes Ranch are jointly responsible for a \$148,000 civil penalty for corporate and excessive contributions in the names of others. Mr. Bevan and Ms. Giudicessi agreed to pay \$5,500 each in civil penalties for assisting Mr. Rhodes and allowing their names to be used to make a contribution in the name of another.

MUR 5398

LifeCare Holdings, Inc. (LifeCare) and, LifeCare Management Services, LLC (LMS) operate a nationwide chain of hospitals. David LeBlanc was president and CEO of LifeCare/LMS and Donald Boucher was LMS's director/vice president for government relations. The companies terminated

Mr. LeBlanc and eliminated Mr. Boucher's position in 2003 during internal investigations which led to the voluntary disclosure of violations of the Act. From 1997 to 2002, Mr. LeBlanc and Mr. Boucher made contributions in their own names in the names of their wives to many various federal political committees. The companies reimbursed approximately \$50,000 in these contributions with corporate funds through the receipt of through bonuses, salary increases and expense reimbursements from the companies. Mr. LeBlanc authorized these reimbursements.

Conciliation Agreements. Mr. LeBlanc and Mr. Boucher both signed conciliation agreements in which they admitted to knowingly and willfully violating the Act. Mr. LeBlanc agreed to pay a \$100,000 civil penalty and Mr. Boucher agreed to pay a \$50,000 penalty. Mr. LeBlanc and Mr. Boucher also have entered criminal plea agreements with the Department of Justice in connection with their conduct.

Due to the cooperation of LifeCare and LMS, the FEC made no finding of knowing and willful violations against the companies; the Commission has also determined to take no further action against any current LifeCare Employee in connection with this matter. LifeCare and LMS agreed to pay a \$50,000 civil penalty, strengthen corporate policies to address more directly and fully the illegality of reimbursing political contributions and conduct an employee-training program to promote compliance. The companies' civil penalty reflects a reduction from the penalty the Commission would have sought if the violations had not been voluntarily disclosed.

—Carlin E. Bunch

¹ Today, the limit for partnership and individual contributions to candidate committees is \$2,100 per election. Partnership contributions are dually attributed to the partnership and to the individual partners. Individuals have a biennial limit of \$101,400 on overall contributions.

Administrative Fines

Committees Fined for Nonfiled and Late Reports

The Commission recently publicized its final action on 32 new Administrative Fine cases, bringing the total number of cases released to the public to 1,261 with \$1,691,998 in fines collected by the FEC.

Civil money penalties for late reports are determined by the number of days the report was late, the amount of financial activity involved and any prior penalties for violations under the administrative fines regulations. Penalties for nonfiled reports—and for reports filed so late as to be considered nonfiled—are also determined by the financial activity for the reporting period and any prior violations. Election sensitive reports, which include reports filed prior to an election (i.e., 12-day Pre-Election, October Quarterly and October Monthly reports), receive higher penalties. Penalties for 48-Hour Notices that are filed late or not at all are determined by the amount of the contribution(s) not timely reported and any prior violations.

The committee and the treasurer are assessed civil money penalties when the Commission makes its final determination. Unpaid civil penalties are referred to the Department of the Treasury for collection.

The committees listed in the adjacent charts, along with their treasurers, were assessed civil money penalties under the administrative fines regulations.

Closed Administrative Fine case files are available through the FEC Press Office and Public Records Office at 800/424-9530.

Committees Fined and Penalties Assessed

Arlette Molina for Congress	\$900 ¹
Belk 2004 U.S. Senate	\$1,975 ¹
Blair Mathies for Congress	\$5,000
Byron for Congress 2004 October Quarterly	\$900
Byron for Congress 2005 12-Day Pre-General	\$500
Chesapeake FED PAC	\$4,000
Christensen 4 Congress	\$0 ²
Cody Robert Judy U.S. Senate	\$135 ¹
Cravins for Congress	\$3,500 ¹
Diedrich For Congress	\$1,125 ²
EDO Corporation PAC	\$900
James A. Garner Congressional Committee 2005 July Quarterly	\$6,750 ¹
James A Garner Congressional Committee 2005 April Quarterly	\$4,500 ¹
Health Net, Incorporated Political Action Committee	\$135
Kurita for U.S. Senate	\$1,350
Magnum for Congress	\$300 ²
Monroe County Democratic Committee	\$5,500
Morris Meyer for Congress	\$250
Police Officer Political Action Committee	\$460
Sharpton 2004	\$375 ¹
Shelby County Democratic Executive Committee	\$1,650
Socas for Congress 2005 July Quarterly	\$14,250 ¹
Socas for Congress 2005 April Quarterly	\$11,875 ¹
South Dakota Republican Party	\$5,500
Stephanie Summers O'Neal for U.S. Congress 2005 July Quarterly	\$0 ²
Stephanie Summers O'Neal for U.S. Congress 2005 April Quarterly	\$0 ²
Sue Helm for Congress Committee	\$620
Sugar Cane Growers Cooperative of Florida PAC	\$250 ¹
Teamsters Local Union No. 688 PAC	\$3,000
Tennessee Democratic Party	\$1,600
TRUEMAJORITYACTIONPAC	\$3,500
Virgil Yanta for Congress	\$3,375 ¹

¹ This civil money penalty has not been collected.

² This civil money penalty was reduced due to the level of activity on the report.

Alternative Dispute Resolution

ADR Program Update

The Commission has made public two more cases resolved in the Alternative Dispute Resolution (ADR) program. The respondents, the alleged violations of the Federal Election Campaign Act (the Act) and the final disposition of the cases are listed below.

1. The Commission reached an agreement with Steven Reifman for Congress, Andrew Glazer, treasurer, regarding failure to report debt. The respondents agreed to amend all their reports to reflect

a disputed debt until it is resolved and to work with FEC staff to terminate the committee within 60 days. If the committee decides within 60 days not to terminate, it will send a representative to an FEC seminar within 12 months. (ADR 275)

2. The Commission reached an agreement with Porter for Congress, Chrissie Hastie, treasurer, regarding inaccurate debt reporting. The respondents stated that the missing information on the report was due to delayed billing. The respondents agreed pay a \$3,500 civil penalty, to record all contracts for services and to ensure that appropriate committee staff members participate in the approval process. They also agree to provide internal training on reporting requirements, and to prepare and maintain a manual of the committee's operating procedures. (ADR 296*)

—Carlin E. Bunch

* This case was internally generated.

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.

Statistics

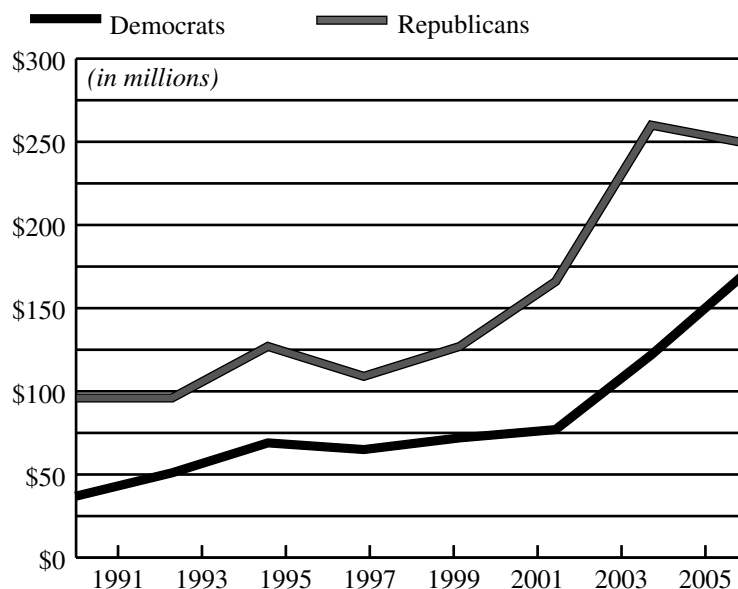
Party Committees Raise Over \$430 Million

During 2005, the Democratic and Republican Party committees raised over \$430 million and spent nearly \$325 million.¹ While the fundraising totals are down slightly from the last non-election year, the Democratic Party committees raised roughly 40% more than they did in 2003. Nevertheless, the Republican Party committees continued to raise more than their Democratic counterparts by roughly \$77 million.

The FEC has compiled extensive statistical information on party committee activity, including breakdowns of receipts and disbursements. To learn more, visit the FEC web site at <http://www.fec.gov>, select the Press Office tab and view the February 16 press release "2005 Party Fundraising Summarized."

¹ These totals aggregate federal receipts of the Democratic and Republican national, senatorial, congressional and state/local party committees.

Contributions to National, Senatorial, Congressional & State/Local Party Committees in Non-Election Years



Roundtable Workshops: What's New for 2006

Date & Time	Subject	Intended Audience
June 7, 2006 9:30–11:00 a.m.	Rule changes and other legal developments affecting nonconnected committees active in 2006 federal elections.	This group includes PACs sponsored by partnerships, unincorporated groups of citizens, leadership PACs and other political organizations as defined in §527 of the Internal Revenue Code.
June 14, 2006 9:30–11:00 a.m. Sold Out!	Rule changes and other legal developments affecting SSFs active in 2006 federal elections and their connected organizations.	This group includes PACs sponsored by corporations, labor organizations, membership organizations and trade associations.
June 21, 2006 9:30–11:00 a.m.	Rule changes and other legal developments affecting federal candidates and their campaign committees.	Federal candidates and their committees' representatives.
June 28, 2006 9:30–11:00 a.m.	Rule changes and other legal developments affecting party committees active in 2006 federal elections.	The national party committees and state and local committees involved in federal elections.

To register, contact the FEC at 800/424-9530 (press 6)
or visit <http://www.fec.gov/info/outreach.shtml#roundtables>.

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