



THE FEDERAL ELECTION COMMISSION

RECORD

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COMMISSION CONTINUES TO PROPOSE REGULATIONS

THE FEDERAL ELECTION COMMISSION HAS APPROVED AND SUBMITTED TO THE CONGRESS REGULATIONS WHICH IMPLEMENT AND INTERPRET THE DISCLOSURE PROVISIONS OF THE 1974 ACT, INCLUDING ALL PROVISIONS FOR REGISTRATION AND REPORTING, AND A REVISED PROPOSAL ON THE ORIGINAL PLACE OF FILING FOR CANDIDATE AND COMMITTEE REPORTS. THE COMMISSION ALSO APPROVED AND SUBMITTED TO CONGRESS THE SECOND REVISION OF THE OFFICE ACCOUNT REGULATION (WHICH ALSO DEALS WITH THE APPLICABILITY OF TITLE 18 PROVISIONS). THE COMMISSION HAS HELD PUBLIC HEARINGS AT ITS HEADQUARTERS ON THREE ADDITIONAL SETS OF REGULATIONS: PUBLIC FINANCING OF CONVENTIONS, ADVISORY OPINION PROCEDURES, AND THE ISSUANCE OF SUBPOENAS.

HIGHLIGHTS OF PROPOSED DISCLOSURE REGULATIONS

Candidacy

- *Candidate:* In addition to the statutory requirement that an individual authorizing fundraising or expenditure activity on his behalf becomes a "candidate," the regulations provide that an individual becomes a "candidate" by failing to disavow such activity on his behalf by another person within 30 days of being notified by the FEC of that activity.

- *Candidate's Personal Expenses:* A candidate's "routine living expenses," including food and residence, are not campaign expenditures if paid out of non-campaign funds.

- *Personal Filing of Candidate:* "Within a reasonable period after attaining candidate status," a "candidate" must file a candidate statement, either by letter or on a special form prepared for that purpose.

- *Waiver of Candidate Personal Reporting:* If a candidate states by letter or statement that his principal campaign committee will receive all contributions and make all expenditures during the campaign, the candidate does not have to file candidate campaign finance reports.

Committees

- *New Registration:* Existing political committees, already filing campaign reports, do not have to file new registration statements when the new regulations go into effect.

- *Authorization by Candidate:* Any committee raising funds or making expenditures on behalf of a candidate must be specifically authorized by that candidate. However, a party committee making limited independent general election expenditures on behalf of a candidate which are specifically authorized under the statute, does not have to receive candidate authorization for such expenditures or to raise the funds to make the expenditures.

- *Officers:* A political committee may have a vice-chairman and assistant treasurer, to immediately take over as chairman and treasurer, respectively, in the event of vacancies occurring in those offices.

- *Individuals Working Together:* A group of individuals will not be considered a political committee if they "act in concert" for a "single expenditure in a single transaction." However, four conditions must be met for the exemption: 1) they must only spend personal money; 2) the activity must not have been authorized by a candidate; 3) no "solicitation effort on behalf of a candidate" can be involved; and 4) the individuals may not continue to act together "for the purpose of influencing a Federal election" after the specific transaction is completed. The expenditures must be reported as independent expenditures.

Contributions and Expenditures

- *Volunteer Activity:* Any individual can donate personal services to a campaign without making a campaign contribution or expenditure. However, an employee volunteering services during a "regular work

period" must make-up or complete his regular duties "within a reasonable period" to prevent that time from being considered an in-kind contribution by the employer. In addition, an employee can utilize "bona fide, although compensable vacation time or other earned leave time" for volunteer political activity.

- **Donation of Own Home:** If an individual uses his own home for a candidate, the "rental value" of the home does not have to be considered in calculating the \$500 exemption provided by the statute for "the cost of invitations, food and beverages" in the home. In addition, a husband and wife each have a separate \$500 exemption.

- **Party Communications:** Communications of a political party to its members are only exempt from being campaign expenditures if directed to "dues paying or contributing members in good standing, and not all enrolled members of the party."

Elections

- **Primary/General Accounting:** If a candidate or committee makes general election expenditures, or receives general election contributions prior to the dates of the primary, "acceptable accounting methods" must be used to "distinguish between" the general and primary election items. The regulations provide that "acceptable methods include, but are limited to 1) designation of separate accounts for each election, and 2) establishment of separate books and records for each election."

- **Caucus or Convention:** If a political party selects its general election candidate at a caucus or convention, that event is considered a separate election. A caucus or convention which does not select the general election candidate is not a separate election, but is part of the primary.

- **Primaries:** For independent or minor party candidates, the primary election ends on the later of either 1) the last day under a State's law to qualify to appear on that State's general election ballot, or 2) the date of the last major party primary election, caucus, or convention in that State.

- **Expenditure Receipts:** Records must be kept of all expenditures, either through keeping receipted bills, cancelled checks, or a "bill, invoice or other contemporaneous memorandum of the last transaction."

- **Written Instrument Identification:** The last person signing a check, money order, or other written instrument, prior to delivery to a candidate or committee, is considered the contributor.

- **Contract, Promise, or Agreement:** Only written "contracts, promises, or agreements" must be reported as contributions. Oral agreements which result in a contribution will be reported when the contribution is actually received.

Reporting Requirements

- **In-Kind Contributions:** Must be reported and includes "securities, goods, facilities, equipment, supplies, personnel, advertising, services or other in-kind contributions provided without charge (except volunteer services) or at a charge which is below the usual charge for such items."

The "usual charge" is defined as "the retail price of that good in the market from which it ordinarily would

have been purchased at the time of its contribution" or the "prevailing hourly or piece-work rate charged for such services prevailing at the time such services were rendered."

- **Earmarking:** A donor makes a contribution to a candidate or political committee if he makes any "designation, instruction or encumbrance" resulting in all or part of the contribution or expenditure being made to or on behalf of such candidate or committee. Earmarking can be "direct or indirect, express or implied, oral or written." Any candidate or committee receiving an earmarked contribution must report the donor and the recipient. The "conduit" must also report the transaction.

- **Deposit of Contributions:** A contribution must be deposited in the campaign depository within 10 days of its receipt by the candidate or committee treasurer.

- **Illegal Contributions:** If a contribution is received which "appears to be illegal under the Act," it must either be 1) returned to the contributor within 10 days, or 2) be deposited, with the treasurer noting in writing any questions about the contribution, taking "all reasonable steps" to determine its validity, and refunding it if it is "determined to have been invalid."

- **Waiver of Quarterly Reports:** No quarterly finance report is required of a candidate or political committee in any quarter in which they do not receive or spend more than \$1,000. However, they must "notify the Commission in writing" the first time this reporting exemption applies.

- **Itemized Contributions:** Only contributions of more than \$100 must be itemized in campaign finance reports. If a candidate or committee chooses to itemize contributions of \$100 or less, it must be done on a separate list from the required larger contributions, and the two categories may not be commingled in the report.

- **Presidential Candidate Monthly Reporting:** Presidential candidates, and their authorized committees, must file monthly reports, rather than filing separate quarterly, pre-election, and post-election reports for every State primary election. Multicandidate committees making contributions or expenditures in more than one State may seek approval from the FEC to file their reports monthly.

- **January Filing Date:** Reports covering transactions through Dec. 31 of any year (annual report and last-quarter report) do not have to be filed until Jan. 31.

- **Loan Repayments:** Repayment of the principal of a loan must be reported. However, the reporting forms will provide for the reporting of loan repayments in a way to eliminate double-counting of both the "expenditure" of the loan money and the subsequent repayment of the loan.

Convention Financing

- **Convention Reports:** Reports by parties on convention finances must be filed within 60 days following the convention, but no later than 20 days prior to the general election.

- **Public Financing Reports:** Parties receiving Federal funds for their conventions must file quarterly reports for every quarter in which they receive or expend funds.

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State Filing

• *Presidential Candidates:* Presidential candidates, and their committees only have to file reports with a State officer containing financial transactions pertaining to that State during a reporting period.

POINT OF ENTRY

The revised regulation on the original place of document filing, includes the following major provisions:

1. Reports and statements required to be filed by a candidate for nomination to the office of *Representative to the U.S. Congress, by the candidate's principal campaign committee and any other authorized committee of that candidate, and by multicandidate committees only supporting House candidates, shall be filed in original form with and received by the Clerk of the House of Representatives, as custodian for the Commission.*
2. Reports and statements required to be filed by a candidate for nomination or election to the office of *United States Senator, by the candidate's principal campaign committee, and by any other authorized committee of that candidate, and by multicandidate committees only supporting Senate candidates, shall be filed in original form with and received by the Secretary of the Senate, as custodian for the Commission.*
3. Reports and statements required to be filed by a candidate for nomination or election to the office of *President and Vice President of the United States, by the candidate's principal campaign committee and any other authorized committee of that candidate, and by all multicandidate committees except those mentioned above, shall be filed in original form with the Federal Election Commission.*

**OFFICE ACCOUNTS:
EXCESS CAMPAIGN FUNDS**

The second revised regulation on "office accounts" includes these provisions:

1. Expenditures from the "office accounts" of all Federal or State officeholders, established "for the purpose of supporting the activities of a Federal or State officeholder," are considered cam-

aign expenditures during the year of the election.

2. Office accounts made up only of publicly appropriated money, or accounts used by the officeholder for personal, non-office activities, are not subject to the regulation. The contribution expenditure limits do not apply to accounts used exclusively to pay for the costs of printing or preparing material sent under the frank.
3. Contributions to an officeholder "for the purpose of supporting the officeholder's activities" are subject at all times to the contribution limits for the next Federal election (\$1,000 per person, or \$5,000 per qualified multicandidate committee). An exception to this is a contribution designated in writing to be used exclusively for franking expenditures.
4. Federal officeholders must report office account contributions and expenditures at the same time as campaign reports. If the officeholder has a principal campaign committee, the office account reports must be filed with that committee, which will then include the office accounts in its own reports. A State officeholder must commence filing office account reports upon becoming a candidate for Federal office under the Federal campaign finance laws.
5. Accounts for preparing or printing frankable material, although not subject to campaign limits, must nevertheless be reported twice annually, *April 10* and *Oct. 10*.
6. Excess campaign funds expended after a Federal election, but *before* the following *Jan. 3*, will be considered expenditures with respect to that election. Transfers of excess campaign funds to office and franking accounts or to charitable organizations, will not be considered campaign expenditures.

The Federal Election Commission held public hearings on Dec. 3 at FEC headquarters. The hearings were for the purpose of receiving comments from interested persons on the following proposed regulations:

- Public Financing of Conventions (11/4/75-40 FR 51348)
- Subpoena Regulations (10/9/75-40 FR 47688)
- Advisory Opinion Regulations (11/24/75)

REGULATIONS	Disclosure	Allocation	Convention Financing	Matching Funds	Entry	Subpoenas	§439a	AO Procedures
<i>Federal Register</i> Publication (Close of Public Comment - 30 days after this date)	9/29/75	11/5/75	11/4/75 Correction: 11/11/75	10/9/75	Not Re- published	10/9/75	Not Re- published	11/24/75
FEC Hearings	10/21, 22, 24	11/19, 21	12/3	11/4, 5	None	12/3	None	12/3
FEC Adoption	11/25				11/25		11/20	
Congressional Action	Transmittal 12/3				Transmittal 12/2		Transmittal 12/22	

TWO ADVISORY OPINIONS HIGHLIGHTED

THE FEDERAL ELECTION COMMISSION FROM TIME TO TIME ISSUES ADVISORY OPINIONS ON SUBJECTS OF SPECIAL INTEREST TO THE GENERAL PUBLIC. THE TWO ADVISORY OPINIONS WHICH FOLLOW ARE OF SUCH SIGNIFICANCE AND ARE HIGHLIGHTED IN OTHER THAN THE SYNOPSIS FORMAT. THOSE PERSONS READING THESE SUMMARIES ARE ADVISED THAT—PENDING PROMULGATION OF RULES AND REGULATIONS—THE OPINIONS APPLY ONLY TO THE REQUESTING PARTIES AND ARE PUBLISHED FOR INFORMATIONAL PURPOSES ONLY.

Advisory Opinion 1975-12 outlines the restrictions on spending by and contributions to individuals seeking to become delegates to Presidential nominating conventions. These restraints apply to all levels of the delegate selection process for national nominating conventions.

Three categories of delegates are treated separately:

1. Authorized Delegates

A delegate-candidate who is specifically authorized by a Presidential candidate to receive contributions or to make expenditures on behalf of that Presidential candidate acts, in effect, as an agent of that candidate. Among the tests of "financial authorization" which the Commission noted were (i) the direct or indirect participation by a Presidential candidate or campaign committee in decisions regarding campaign spending by or on behalf of a delegate-candidate; (ii) the direct or indirect participation by a Presidential candidate or campaign committee in any financial activity or transaction by or on behalf of a delegate-candidate.

Such "authorized" delegate-candidates have no independent expenditure limits: the delegate's expenditures are charged to the Presidential candidate's national and State limits.

Contributions to "authorized delegate-candidates are presumed to come within the dominion and control of the respective Presidential campaign committee or candidate." As "indirect" contributions "to a Presidential candidate," all donations to an "authorized" delegate-candidate are subject to the individual's or committee's limit for the appropriate Presidential candidate.

An "authorized" delegate-candidate who receives contributions or makes expenditures in excess of \$100, excluding travel and subsistence, must file reports with the principal campaign committee of the related Presidential candidate. The principal campaign committee will include the data in its own financial disclosure reports.

2. Pledged-But-Unauthorized Delegates

A delegate-candidate who publicizes support for a particular Presidential candidate, but who is not "financially authorized" in the manner explained above, is considered a "pledged-but-unauthorized" delegate.

Expenditures by the "pledged-but-unauthorized" delegate-candidate are not charged to the limitations of the Presidential candidates which the delegate-candidate supports. However, these expenditures are made "relative to a clearly identified candidate," and count as "independent expenditures" subject to an aggregate ceiling of \$1,000.

The "pledged-but-unauthorized" delegate-candidate is considered to operate as an agent for the donor who promotes the election of a particular candidate through the act of giving. Donations by an individual or committee to all "pledged-but-unauthorized" delegates publicly supporting a particular candidate are chargeable against the person's independent expenditure limit, and thus may not exceed \$1,000.

The "pledged-but-unauthorized" delegate-candidate who makes campaign expenditures in excess of \$100, exclusive of travel and subsistence, will be required to file statements of receipts and expenditures with the Commission.

3. Uncommitted Delegates

Under the existing Act, contribution and expenditure limits do not apply to truly "uncommitted" or "unpledged" delegate-candidates. However, any delegate who spuriously claims to be unpledged in order to exceed the restrictions imposed upon other categories of pledged delegates will be held in violation of the Act. The Commission will determine the existence of sham or collusion upon case-by-case examination of the facts.

A contribution to an "unpledged" delegate does count toward an individual contributor's \$25,000 aggregate ceiling on political contributions in a calendar year [18 U.S.C. §608(b)(3)].

Uncommitted delegates also must report contributions or expenditures in excess of \$100, exclusive of travel and subsistence, to the Commission.

4. Reporting by Contributors

A donor must report to the Commission contributions to all delegate-candidates which in the aggregate exceed \$100.

5. Reporting Obligations by Local, County, District, and State Party Committees

These party committees will not report administrative expenses incurred in connection with the sponsoring of conventions at which delegates are chosen to attend either the next stage of the State's delegate selection processes or the national nominating convention. It must be noted, however, that these conventions are "in connection with" Federal elections (and corporations, labor unions, national banks, foreign nationals and government contractors are prohibited from making contributions or expenditures to finance conventions or caucuses).

It is possible that conventions or caucuses may become events "influencing the nomination of a person to Federal office" by virtue of their structure or by accompanying activities, e.g., convention keynote speech by or on behalf of a Federal candidate or a fund-raising activity for Federal candidates. In such a situation, the expenditures must be reported by the party in accordance with the Commission's Interim Guideline on Allocation of Expenditures (*Federal Register*, 40 FR 51610).

The Commission noted that this Advisory Opinion represents its understanding of the restrictions which the Act places upon activity by and on behalf of delegate-candidates "pending possible amendment by Congress."

In **Advisory Opinion 1975-23**, requested by the Sun Oil Company, the Commission set forth guidelines for

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the establishment of a corporate political action committee (SUN PAC), and a corporate "trustee" payroll deduction plan for political giving (SUN EPA). The guidelines are as follows:

SUN PAC (Political Action Committee)

1. Sun Oil may use treasury funds to establish, administer, and solicit voluntary contributions to SUN PAC.

2. Sun may make political contributions and expenditures in connection with Federal elections as long as such monies are expended from SUN PAC, and the fund consists of voluntary contributions.

3. Sun may solicit contributions for SUN PAC from its stockholders and employees, provided there is "no coercion or reprisal of any kind in the solicitation of contributions." The Commission set out three guidelines to "minimize the appearance or perception of coercion":

- a) No superior should solicit a subordinate;
- b) The solicited employee must be informed of the political purpose of SUN PAC;
- c) The employee should be informed of his right to refuse to contribute without reprisal.

4. Contributions to and expenditures from SUN PAC are subject to reporting requirements and to applicable limitations of the Federal campaign finance law.

Sun may "control and direct disbursement of contributions and expenditures from SUN PAC." The Commission cited a U.S. Supreme Court case (*Pipefitters Local 562 v. United States*) where the Court held that a labor union political fund "must be separate from the sponsoring union only in the sense that there must be strict segregation of its monies from union dues and assessments." The Commission said that "since corporations and labor unions are subject to the same restrictions under (the applicable section of the law)... Sun Oil can exercise control over the operations and activities of SUN PAC."

6. Sun may not use treasury funds to solicit contributions from other political committees. SUN PAC, however, may use voluntary contributions to solicit such contributions.

SUN EPA (Political Giving Program whereby employees may elect to have a certain amount deducted from their paychecks, to be placed in a separate bank account, chosen by Sun, and contributed at the employee's direction to specific candidates, committees, and parties of his choice):

1. Sun may use treasury funds to establish such a "trustee" payroll deduction plan for political giving, provided that "Sun Oil will exercise no control over the program nor will attempt to influence employee contributions."

2. Sun may make "any effort, either orally or in writing, to direct contributions by participants to SUN EPA to any candidate, group of candidates, political party, or other persons."

3. "The Commission would not object to Sun Oil's receiving reports setting forth the total number of employees in the plan, the total amount of funds in all the accounts, and the total amount of contributions made to all candidates and committees." However, the Commission noted that the "receipt and publication of any report on the source or recipient of any contribution(s) or donation(s) into or out of any SUN EPA account(s) may constitute the exercise of direction or control over

future contributions," which would be in violation of the law.

AO 1975-23 was approved by a vote of 4-2.

Commissioners Harris and Tiernan filed a dissenting opinion summarized below:

1. 18 U.S.C. §610 does not authorize Sun Oil to its general treasury funds to solicit donations to its political fund from persons other than Sun Oil's stockholders. This conclusion is supported by:

- a) The language and overall objective of the statute.
- b) Passages from the *Congressional Record* where Representative Hansen, the sponsor of the amendment authorizing segregated funds, pointed out that the segregated fund exception to §610 was to be read together with the communications exception; and, where he repeatedly emphasized that corporate treasury funds could be spent only for activities directed at stockholders as opposed to the general public.
- c) The Supreme Court's interpretation of the legislative history in §610 in *Pipefitters Local 562 v. United States*, 407 U.S. 385, 431 m. 42 (1972).
- d) Data showing that Sun Oil has almost five times as many stockholders as employees and that corporations in general have almost twice as many stockholders (over 30 million) as unions have members (about 18 million). Congress certainly did not intend to create the gross disparity in the solicitation power of corporations and unions, which the majority of the Commission now creates, by authorizing corporate solicitation of practically the entire workforce of the nation (over 80 million workers).
- e) Scholarly articles written by an experienced corporate attorney and the General Counsel of the United States Chamber of Commerce both of which appeared in regular journals of the American Bar Association.

2. The plain language of 18 U.S.C. §610 prohibits Sun Oil from spending treasury funds to establish and operate a "trustee" plan contribution program for its employees. In support of this conclusion, the dissenters noted that:

- a) The intent of the Hansen Amendment was to set forth in "clear and unequivocal statutory language" the "limited circumstances" under which corporations could spend treasury money in connection with Federal elections. Those "limited circumstances" included the establishment of segregated funds and not any other types of political contribution schemes.
- b) An expenditure of general funds does not have to be made directly to a candidate, committee or political party to be in violation of §610. This section reaches any expenditure "in connection with a Federal election." [Support for this interpretation was found in a Justice Department brief which had been filed in a Federal criminal prosecution and in the concurring opinion to *United States v. CIO*, 335 U.S. 106 (1948).]

3. The broad language of 18 U.S.C. §611 would prohibit expenditures of treasury funds for a trustee plan by a government contractor.

CURRENT ADVISORY OPINIONS LISTED

This chart represents a listing and brief description of Advisory Opinions issued by the Commission from mid-November through early December. Advisory Opinion Requests are designated a number as they are received by the Commission. Advisory Opinions are not necessarily approved in sequential order. Reference following each description is the publication date and page number in the Federal Register. (For descriptions of previously issued Advisory Opinions commencing with AO 1975-1, see The FEC Record, Vol. 1, Nos. 2 and 3.)

AO 1975-12—Application of the law to the delegate selection process. (11/28/75-55596)

AO 1975-23—Establishes procedures for administering and soliciting contributions to a corporate political action committee. (12/3/75-56584)

AO 1975-31—Contributions by individuals and their spouses who are connected with Government contractors. (11/28/75-55598)

AO 1975-32—A multi-candidate political committee is prohibited from contributing more than \$5,000 per candidate per election, but may contribute without limitation to a national committee of a political party or other political organization provided such contributions are not earmarked to a particular candidate. (11/28/75-55599)

AO 1975-46—Distinguishes between an "honorarium"—accepted for a single event or transaction, and a "stipend"—accepted as fixed or regular compensation for services rendered. (/ / -)

AO 1975-48—Contributions by an individual to a multi-candidate political committee which financially supports the same candidate(s) as the individual contributor are permissible under certain conditions. (11/28/75-55600)

AO 1975-49—When the aggregate of ticket purchases for a fundraising event by one person exceed \$10, records must be kept. Purchases over \$100 must be reported along with the occupation and principal place of business of the

purchaser. The portion of the donation which covers the actual costs of a fundraising event must be reported as a contribution and charged against the contribution limits. (11/28/75-55600)

AO 1975-68—A fundraising dinner to retire a 1974 campaign deficit, held before publication of the Commission's Interim Guideline on Pre-1975 Campaign Debts, is not retroactively subject to that Guideline. (11/28/75-55601)

AO 1975-69—The Commission decided that while outstanding, a loan is a contribution which counts against the individual's \$1,000 and \$25,000 contribution limitations. Once it is retired, however, the loan (a contribution by definition) is extinguished and no longer counts against these limitations. (/ / -)

AO 1975-72—A national party committee may pay for expenses incurred by Presidential candidates who are engaged in party building activities before Jan. 1 of a Presidential election year. (12/3/75-56589)

AO 1975-97—An entertainer's time and talent can be volunteered on behalf of a candidate for a fundraising event without attribution of the value of his services to the \$1,000 contribution limit. Out-of-pocket expenses for travel and subsistence will be attributable to the entertainer's contribution ceiling, to the extent that the cumulative value of these activities exceeds \$500. (11/28/75-55601)

SYNOPSIS OF RECENT ADVISORY OPINIONS

These Advisory Opinion synopses are offered for informative purposes only. Any interested party is advised to read the complete text of the opinion published in the Federal Register, or to write the Commission for a copy.

AO 1975-31. The Shapp for President Committee asked whether, in certain cases, a person is barred from making a personal contribution because of the prior acts of a related person or business.

The Shapp Committee first asked whether a wife in a single-income family can make a contribution to a candidate if the husband already has contributed \$1,000 to the same candidate. The Commission concluded that based on statutory definitions, a wife is an individual who is entitled to make contributions in her own name in the same manner and under the same limitations as her husband. Thus, even though one spouse in a single-income family already has made contributions to a candidate for Federal office of up to \$1,000 per election, the other spouse may similarly contribute in the aggregate up to \$1,000 per election to the same candidate.

The Shapp Committee then asked whether a contribution by a partner, officer, or member of a corporation or business holding a Federal contract, or the spouses of these persons, would constitute a violation of 18 U.S.C. §611. The Commission concluded that in general, any individual, sole proprietorship, partnership, corporation, or any other organization or group of

persons that is negotiating, or has not completed performance of any contract with the United States (or any department or agency thereof) is prohibited by 18 U.S.C. §611 from making a contribution. As to whether a principal party, officer or employee of such a business would be covered by 18 U.S.C. §611 depends largely upon the established legal relationship between that individual and the business.

The Commission stated that it shall presume that each Federal contract entered into by an unincorporated sole proprietor of a business (or an unassociated accountant, attorney, doctor, or like professional) was entered into personally and thus such individuals are barred from personally making a contribution.

Conversely, since a corporation traditionally has been held to be clearly distinct from its stockholders, officers, or employees, the Commission shall presume that such persons have acted solely in a representative capacity for the corporation with respect to any Federal contract, and thus they can make personal contributions to influence a Federal election.

Similarly, the Commission noted that partners may undertake certain actions outside the scope of their partnership's business, and thus the Commission concluded that a contribution by an individual partner 1) out of personal funds on a personal check, as distinguished from partnership funds drawn on the partnership account, and 2) made in the partner's own name, will not be regarded as a violation of 18 U.S.C. §611.

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The Commission concluded that employees of any firm with a Federal contract, and the spouse of a sole proprietor, stockholder, officer, partner, or employee of a business with a Federal contract is not prohibited by 18 U.S.C. §611 from making a personal contribution.

AO 1975-32. A multi-candidate committee may contribute unearmarked monies without limitation to a national committee of a political party or to other political organizations provided the donee committee is not a single candidate committee, a candidate's principal campaign committee or a committee authorized—in writing—by a candidate to accept contributions on his/her behalf. While transfers of funds from one political committee to another are not prohibited, they may serve to place two committees under common control, in which case the committees will be entitled to only one contribution limit between them for any candidate for Federal office, in any election.

AO 1975-46. Representative Barbara Jordan has an oral contract with a national television network to videotape editorial comment once a month for presentation on the network's morning news program. Representative Jordan asked the Commission whether the money she receives for doing this program is an honorarium and thus subject to the limits on honorariums, or merely a salary for services rendered.

The Commission ruled that under 18 U.S.C. §616, an "honorarium" should be distinguished from a "stipend." The Commission stated that money received by an officer or employee of the Federal government will be considered an "honorarium" if it is accepted: 1) as consideration for an appearance, speech, or article; and 2) as payment for a single event or transaction and under circumstances which do not imply a continuing compensatory relationship between the parties for similar services. In contrast, a "stipend" will be considered to be received if the money is accepted in the form of fixed or regular compensation intended as consideration for the rendering of services, e.g., a salary.

The Commission concluded that the money Representative Jordan received failed to qualify as an honorarium because commentators appearing on the mass media customarily have received fixed and regular compensation. Thus, the money received will be treated as a stipend received in exchange for the rendering of services.

AO 1975-48. A person who has contributed \$1,000 to a particular candidate may also contribute to a committee of a political party which makes contributions to that same candidate, provided that the contributor does not give with the knowledge that a substantial portion of the contribution will be contributed to or expended on behalf of that candidate.

AO 1975-72. The Republican National Committee sought a ruling from the Commission as to whether "... the ... Federal Election Campaign Law of 1974 ... [has] ... application to ... (a) ... national party's payment of expenses incurred by the President of the United States, the Vice President of the United States, and their aides while engaged in national, State, or local party promotional activities."

The Commission's response adopted a two-part test. National party appearances by the President after Jan. 1 of a Presidential election year, because of their

proximity to the election, would be presumed to be candidate-related and would be governed by the relevant portions of the Act. However, appearances before Jan. 1 at a legitimate party-building activity would be presumed not to be candidate-related. The Commission's conclusions could be rebutted upon a showing that the solicitations for the party event, or the setting of the event, or the remarks made by candidates who were invited to attend were "for the purpose of influencing the nomination for election, or election, of [that candidate(s)] to Federal office."

ELIGIBILITY FOR MATCHING FUNDS DETERMINATION MADE

The FEC has made a determination that six Presidential candidates have raised the "threshold" amount of contributions necessary to qualify for Federal matching funds.

The Commission accepted FEC staff reports that *Lloyd Bentsen, Jimmy Carter, Henry Jackson, Ronald Reagan, Terry Sanford, and President Ford*, had each "collected in excess of \$5,000 in matchable contributions in amounts of \$250 or less in each of 20 states as required."

The "threshold" determination does not constitute formal certification by the Commission for eligibility for Federal matching funds. Certification of all eligible candidates will not be made until later this month, and will cover all matchable funds collected in the first 10 months of 1975. No funds may be disbursed by the Treasury Department until after Jan. 1, 1975.

The Audit and Investigation staff of the Commission is now completing the audits of Fred Harris, Morris Udall, and George Wallace, who were also part of the initial audit schedule. Birch Bayh, Milton Shapp, and Sargent Shriver are in a second group of candidates, whose audits began after the filing of the Oct. 10 campaign finance reports. The Federal Election Commission expects to complete the audits of these candidates shortly. Additional audits will be scheduled by the Commission as new Presidential candidates file.

FEC NOTES

Public Records

Frequently sought information in the Public Records section includes newly registered, non-party multi-candidate committees. We have listed below the most recently registered committees, along with their affiliation, if any. This will be a regularly featured section of FEC Notes.

- Metropolitan Employees' Political Participation Fund (affiliated with Metropolitan Life Insurance Co.)
- The National Good Government Fund
- ATU-COPE Political Contribution Committee (affiliated with Amalgamated Transit Union)
- American Express Officer's Committee for Responsible Government (affiliated with American Express Company)

Clearinghouse Advisory Panel

The Commission has appointed members of the Clearinghouse Advisory Panel, which was created to provide the Commission with expertise on the processes of election administration and voter registration, and with advice

on new projects to be undertaken through the Commission's National Clearinghouse for Information on Administration of Elections. The Panel is comprised of eight Secretaries of State (or equivalent State officer or designated official), six county and/or local election administrators, two State legislative officers, and three State Governors. The members are listed here for informational purposes:

CALIFORNIA	Mr. William Durley
CONNECTICUT	Hon. Gloria Schaffer
FLORIDA	Mrs. Joyce Dieffenderfer
ILLINOIS	Mr. Tom Walsh
KANSAS	Hon. Elwill Shanahan
MAINE	Hon. James B. Longley
MARYLAND	Mrs. Marie Garber
MICHIGAN	Mr. Bernard J. Apol
MISSOURI	Hon. James Kirkpatrick
NEBRASKA	Hon. Allen J. Beerman
NEVADA	Mr. Daniel J. Demers
NEW YORK	Mr. Thomas W. Wallace
OHIO	Hon. Allen E. Norris
OREGON	Hon. Clay Myers
PENNSYLVANIA	Mr. Will Alton
TENNESSEE	Mr. Shirley Hassler
WASHINGTON	Mr. J. Barbano

Two Governors are to be appointed.

In Progress

- New Task Forces

Matching Funds Distribution Task Force. In response to a request for guidance by the Treasury Department, this TF is examining the problems of the availability of Presidential primary matching funds for distribution, the priorities of distribution, and the

necessity for allocation of funds during distribution. The Task Force plans to issue its report and recommendations to the Commission in early December.

Multi-Candidate Committee Task Force. The Task Force will review problems relating to multi-candidate committees such as transfers, common control, and affiliation.

- Regional Seminars

After the first of the year, the Commission will begin holding regional seminars. Dates and exact locations will be published in the *Record* as soon as they are scheduled. Anyone wishing further information on these seminars, or who wishes to have one held in his/her area, should contact the FEC's Public Communications Division (202/382-4733).

MATERIALS AVAILABLE

- *Federal Register* Reprints
- *FEC Record*, Nos. 1, 2, and 3
- General Information Folder
- Index of Reports and Statements
- *Cost of Election Administration*
- *Survey of Absentee Registration and Voting*
- Chart of Reporting Dates
- November Issue of *Election Law Survey*
- Volunteer's Guide
- Fundraiser's Guide

Available soon will be the Revised Edition of the *Federal Election Campaign Act* (1st ed., April 1975) and the new FEC forms for disclosure and compliance.

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