



THE FEDERAL ELECTION COMMISSION

RECORD

1325 K Street N.W., Washington, D.C. 20463

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April 1980

REPORTS

NEW REPORTING PROCEDURES AND FORMS FOR APRIL REPORTS

Political committees listed below are now required to file quarterly reports with the Federal Election Commission by April 15 or monthly reports by April 20. Political committees must report their campaign finance activity in accordance with the new disclosure provisions contained in the 1979 Amendments to the Federal Election Campaign Act (Pub. L. 96-187). The Commission has revised its regulations (11 CFR Part 104) and issued new forms to carry out the 1979 Amendments.

Who Reports in April

The thresholds which trigger registration and reporting requirements for political committees have been modified by the 1979 Amendments as follows:

Authorized candidate committees (including principal campaign committees) register and report when both the committees and the candidate they support have together received contributions in excess of \$5,000 or made expenditures and/or incurred debts in excess of \$5,000.

Local party organizations register as political committees and report when they have either:

1. received contributions in excess of \$5,000 a year;
2. spent more than \$5,000 a year for certain payments that are exempted from the definition of contribution or expenditure. See 2 U.S.C. §431B(8)(v), (x) and (xii);
3. made expenditures exceeding \$1,000 a year; or
4. made contributions exceeding \$1,000 a year.

Separate segregated funds (political action committees or PACs) must register and report regardless of the amount of their financial activity.

All other political committees must register and report when they have received contributions in excess of \$1,000 or made expenditures and incurred debts in excess of \$1,000 per calendar year.

Who Need Not Report

Under the 1979 Amendments, the following persons are not required to file a quarterly or monthly report in April 1980:

Candidates. Instead, as an agent of the campaign, the candidate must report to the principal campaign committee any personal financial activity related to the campaign.

Committees authorized by individuals who are not candidates under the Act, i.e., committees which have not received contributions aggregating in excess of \$5,000 or made expenditures and incurred debts in excess of \$5,000, even though they may have already registered under the Act.

Committees that exclusively support candidates not seeking election in 1980 (e.g., candidates seeking a U.S. Senate seat in 1982). Instead, these political committees are required to file semiannual reports in July 1980 and January 1981. (Quarterly reports are required only during an election year.)

When Reports Are Filed

Monthly Reports. The treasurer of each principal campaign committee of a Presidential candidate which has received contributions or made expenditures aggregating \$100,000, or anticipates doing so, must file a monthly report by April 20. In addition, all committees not authorized by a candidate, which file on a monthly basis, must file their monthly report by April 20. The monthly report must cover all transactions that occurred from March 1 through March 31, 1980. Note that, if a Presidential committee that has been filing on a quarterly basis receives contributions or makes expenditures aggregating in excess of \$100,000, that committee must begin to file monthly reports in the next reporting period.

Quarterly Reports. The treasurer of any other political committee required to report in April (see above) must file a quarterly report by April 15 regardless of the amount of funds received or expended by the committee during the quarter. (FEC Form 3a (postcard waiver) is no longer an acceptable filing.) The quarterly report must include all reportable transactions occurring since the last full report

filed (or, if the committee is new, from the date of registration) through March 31, 1980.

Where Reports Are Filed

Statements and Reports Filed with the Federal Government. Political committees must file their reports with the Clerk of the House, the Secretary of the Senate or the Federal Election Commission, as appropriate. 11 CFR Part 105.

NOTE: Each authorized committee of a candidate must file its report with the principal campaign committee, which in turn must file a consolidated report on FEC Form 32 with the appropriate offices.

Statements and Reports Filed with State Officers. Principal campaign committees of Presidential and Vice Presidential candidates must file a report with the appropriate officials in each state in which an expenditure is made on behalf of the candidate during the reporting period covered. 11 CFR 108.2. All unauthorized committees must file a copy of each report and statement related to Presidential and Vice Presidential campaigns with the appropriate state officers of both the state in which the expenditure is made and the state in which the unauthorized committee is headquartered. 11 CFR 108.2.

A copy of reports and statements related to candidates for the Senate and the House must be filed with the appropriate official in the state in which the candidate seeks election. Political committees, other than authorized committees, need file only that portion of their report applicable to a candidate seeking election in the particular state. 2 U.S.C. §439(a)(2)(B).

Content

The 1979 Amendments to the Act modify the content of reports by redefining and reordering reporting categories under which receipts and disbursements must be reported. Consult the new FEC forms for detailed instructions on how to fill out the report.

New Forms

Political committees must use the following forms, with appropriate schedules, to file their quarterly or monthly reports:

1. *Form 3X* must be used by all political committees which are not authorized by a candidate.
2. *Form 3* must be used by all political committees authorized by a candidate for the House or Senate.
3. *Form 3P* must be used by Presidential campaigns.

A notice containing additional information, as well as forms, has been sent to all registered committees. Questions about the notice, or requests for forms, should be addressed to the Office of Public Communications, Federal Election

Commission, 1325 K Street, N.W., Washington, D.C. 20463; or telephone 202/523-4068, toll-free 800/424-9530.

SPECIAL ELECTION IN LOUISIANA

Louisiana has scheduled a special primary election for April 19 to fill the seat vacated by Governor David C. Treen, former Representative from the Third Congressional District. A special general election will be held on May 17 only if one of the candidates running in the special primary election does not achieve a majority of the votes in the primary. (Under Louisiana's open primary law, all Republican and Democratic candidates appear on the same primary ballot. In the event no candidate achieves a majority of votes in the primary election, the top two vote-getters go on to the special general election regardless of party affiliation.)

The principal campaign committees of all candidates involved in the primary election will receive a special notice from the FEC on their reporting requirements and filing dates. All other committees supporting candidates in the special election in Louisiana should contact the Commission for information on required reports. Information may be obtained by calling toll free (800)424-9530 or 523-4068 in Washington, D.C.



COMMISSION PROPOSES REGULATIONS TO IMPLEMENT 1979 AMENDMENTS TO ACT

On February 28, 1980, the Federal Election Commission sent to Congress a new set of proposed regulations revising 11 CFR, Parts 100-106, 108-114, and 9008, which implement the 1979 Amendments to the Federal Election Campaign Act (the Act) (Pub. L. No. 96-187). Under a special provision for expediting this set of regulations, the Commission may prescribe these regulations 15 legislative days after it has sent them to Congress, unless the House of Representatives or the Senate disapproves them. (Normally, the Congressional review period is 30 legislative days. 2 U.S.C. §438(d)(2).)

The proposed regulations modify only those parts of the regulations that were affected by the 1979 Amendments. Regulations on reporting requirements (Part 104), for example, have been changed substantially, but the regulations on separate segregated funds (Part 114) have been modified only slightly. The following chart indicates which parts and sections of the regulations have been affected by being rewritten, renumbered or deleted. All citations refer to regulations prescribed by the Commission on April 13, 1977, to implement the 1976 amendments to the Act.

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Part	No Change	Rewritten	Renumbered	Deleted
100		•	•	
101		•	•	
102		•	•	
103		•		
104		•	•	
105		•	§ 105.4	
106	• (except minor revisions)	§ 106.1(c)(3) § 106.2(a) § 106.3(d)		
107*		•		
108	§ 108.7 § 108.8	§§ 108.1-108.6		
109	§ 109.1	§ 109.2 § 109.4	§ 109.4	§ 109.3 § 109.5
110	§ 110.1 §§ 110.3-110.5 §§ 110.8-110.10	§ 110.2(b) § 110.6(c)(4) § 110.6(c)(4)(i) § 110.11(a) § 110.12(a) § 110.12(b)(5) & (6)	§ 110.7(c)(3)	§ 110.7(b)(5) § 110.7(c)(2) § 110.11(c)
111		•	•	
112		•	•	
113	§ 113.1	§ 113.2(c) & (d) § 113.3(b) § 113.5(b)	§ 113.5	§ 113.4
114	• (except minor revisions)	§ 114.1(a)(2)(v) § 114.6(c)(3) § 114.6(d) § 114.6(d)(2)(ii) § 114.6(d)(3)(i) & (ii)		
900B	• (except minor revisions)	§ 900B.3(a)		

The proposed regulations were published in the *Federal Register* on March 7, 1980 (45 FR 15080-15126). The notice includes a subject index to 11 CFR, Parts 100-115. This index covers both the proposed regulations that implement the 1979 Amendments to the Act and those sections and parts of the regulations that were not affected by the Amendments (and thus were not changed by the newly proposed regulations).

OPINIONS

ADVISORY OPINION REQUESTS

Advisory Opinion Requests (AOR's) pose questions on the application of the Act or Commission Regulations to specific factual situations described in the AOR. The following chart lists recent AOR's with a brief description of the subject matter, the date the requests were made public and the number of pages of each request. The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject	Date Made Public	No. of Pages
1980-13	Payment of college tuition and salary when professor is federal candidate.	2/13/80	3
1980-14	Use of campaign materials from 1972 campaign in 1980 campaign.	2/22/80	1
1980-15	Nonpartisan voter registration and get-out-the-vote public service announcements by corporation.	2/22/80	2
1980-16	Transportation cost to charity fundraising golf tournament paid by corporations.	2/27/80	2
1980-17	Fundraising agent of political committee paid on commission basis.	2/27/80	2
1980-18	Establishment and administrative costs of separate segregated fund established by four affiliated corporations.	2/27/80	11
1980-19	Purchase by labor organization of a poll conducted under contract between a Congressional campaign committee and a polling firm.	2/28/80	1
1980-20	Corporate payment of advertisement urging voter registration in a general circulation newspaper.	3/3/80	7
1980-21	Donation of baseball tickets to host committee of national party convention.	3/4/80	2
1980-22	Corporate sponsorship of town meetings.	3/4/80	2
1980-23	Name of separate segregated fund.	3/10/80	2

*Previous change. Amended Section 107 was prescribed by the Commission on December 20, 1979, and published in the *Federal Register* on November 1, 1979 (44 FR 63045).

continued

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Under the 1979 amendments to the Act, any person may request an AO on a specific activity which the person intends to undertake. The requester will not be subject to any sanctions under the Act if he/she acts in accordance with the opinion. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1979-58: Volunteer Services Provided by Senior Partner of Law Firm

The senior partner of a law firm may engage in volunteer fundraising and political activities for the Carter/Mondale Presidential Committee, Inc. (the Committee) without such activities counting as in-kind contributions from the firm to the Committee. 2 U.S.C. §431(8)(A).

Although the senior partner would be providing services to the Committee during the law firm's normal business hours, his income from the firm would not be considered compensation for such services because: 1) the partner's income is not based on time devoted to firm business but rather on "his proprietary or ownership interest in the firm"; and 2) the partner has complete discretion in the use of his time, and no reduction of income to the firm would occur if, for whatever reason, he spent fewer hours at the firm. Commissioner Frank P. Reiche filed a dissenting opinion. (Date Issued: March 5, 1980; Length: 6 pages)

AO 1979-62: Solicitations by Trade Association PAC

The Tooling and Machining PAC, the separate segregated fund of the National Tool, Die and Precision Machining Association (NTDPMA), a trade association, may not solicit the executive or administrative personnel of corporations which are members of the Chicago Tool and Die Institute (CTDI) but are not members of NTDPMA. Although CTDI and NTDPMA have similar goals, interests and membership requirements, not all the member corporations of CTDI are members of NTDPMA. The Tooling and Machining PAC would, therefore, be specifically precluded from soliciting those corporations that are not members of NTDPMA. (Date Issued: February 14, 1980; Length: 3 pages)

AO 1979-80: Independent Expenditures Program of a Multicandidate Political Committee

Use of consultants or vendors by the National Conservative Political Action Committee (NCPAC), a multicandidate political committee, to make independent expenditures may result in an in-kind contribution to a candidate for federal office under certain circumstances.

Before undertaking an independent expenditure program advocating the defeat of certain candidates for federal office, NCPAC sought guidance from the Commission in determining whether NCPAC would be prohibited from engaging a particular consultant or vendor, in connection with making independent expenditures advocating the

defeat of a clearly identified candidate, if that consultant or vendor had also been separately engaged by an opponent of that candidate or by a potential opponent of that candidate.

The Act and Commission regulations state the conditions which must be met in order for an expenditure to be independent. Specifically, "independent expenditure means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not *made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.*" (Italics added.)

The questions posed by NCPAC suggested that NCPAC was concerned with the last element (italicized) in the definition of an independent expenditure. Commission regulations specifically define this element of an independent expenditure as an expenditure which is not arranged, coordinated or directed "by the candidate or his/her agent prior to the publication, distribution, display or broadcast of the communication." 11 CFR 109.1(b)(4). Further, the regulations state that such cooperation or coordination in making the expenditure would be presumed to exist if:

1. The expenditure is "based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate," or
2. The expenditure is "made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent." 11 CFR 109.1(b)(4)(i).

Therefore, if NCPAC engages the services of a vendor or consultant to make independent expenditures advocating the defeat of a certain candidate, the presumption is that the expenditures would not be independent and would result in an in-kind contribution to the candidate's opponent if:

1. An agency relationship exists or existed between the candidate's opponent and a vendor or consultant engaged by NCPAC; or
2. The expenditure is based on information provided by the opponent or the opponent's agent; or
3. The expenditure is made by or through any person connected with the opponent's campaign, as specified by 11 CFR 109.1(b)(4)(i)(B). (See above.)

The Commission then applied these three criteria for an independent expenditure program to nine specific situations presented by NCPAC. (Date Issued: March 12, 1980; Length: 10 pages)

AO 1979-81: Free Use of Community Facility for Fundraising Event

Free use of the Kansas City Armory for a fundraising event by the Winn for Congress Committee (the Winn Committee) would not constitute an in-kind contribution to the Winn Committee by the State of Kansas (owners of the Armory), by the Citizen's Military Committee (managers of the Armory) or by the Wyandotte County Republican

Committee (the group that transferred to the Winn Committee their right to use the Armory free of charge once a year) provided the conditions below are met.

Under the Act as amended in 1979, the term "contribution" excludes, under certain circumstances, "the use of real or personal property, including a church or community room." 2 U.S.C. §431(8)(b)(ii). In this case, the use of the Armory free of charge would not be considered an in-kind contribution to the Winn Committee as long as the Armory:

- is commonly offered and used on a regular basis by members of the Kansas City community for noncommercial and community purposes; and
- is available for use without regard to political affiliation.

There would be no reporting requirement if the use is not a contribution under these conditions. (Date Issued: February 13, 1980; Length: 2 pages)

AO 1979-82: Use of Excess Campaign Funds

Congressman Ronald M. Mottl (D-Ohio) may transfer excess campaign funds to his son's campaign for state office as long as the transfer of funds is lawful under Ohio law. Under the 1979 Amendments to the Act, candidates who were not members of Congress on the day the 1979 Amendments were enacted into law (January 8, 1980) may not use excess campaign funds for personal use. Since, however, Congressman Mottl was a Member of the U.S. House on that date, the question does not arise as to whether a transfer to his son's state campaign would be considered using the funds for "personal use." 2 U.S.C. §439a.

Further, the Act does limit the amount of funds which may be transferred by Congressman Mottl's principal campaign committee to candidates for state or local office. 2 U.S.C. §441a. (Date Issued: February 8, 1980; Length: 2 pages)

AO 1980-1: Solicitation of Insurance Agents by Corporation PAC

The Farmer's Mutual Hail Political Action Committee (FMH-PAC), the separate segregated fund of the Farmers Mutual Hail Insurance of Iowa (the Company), may not solicit contributions from the commissioned insurance agents who represent the Company.

The commissioned agents may not be considered "executive or administrative personnel" because the Company does not withhold income tax from the agents' salaries. 11 CFR 114.1(c). Since corporations may solicit only their executive and administrative personnel and stockholders, FMH-PAC may not solicit these agents for contributions. (Date Issued: February 15, 1980; Length: 2 pages)

AO 1980-3: Qualifying as the National Committee of a Political Party

Documentation provided to the Commission demonstrates that the Executive Committee of the Citizens Party is engaged in sufficient party-building activity on the national level to qualify as the "national committee" of the Citizens Party, once the Citizens Party qualifies as a "political party" under the Act and Commission Regulations. To

qualify as a political party, the Citizens Party must obtain verification from a state election official that a federal candidate's name will appear on that state's election ballot as a Citizens Party candidate. 2 U.S.C. §431(16). At that time, assuming the Executive Committee continues its party-building activities, it would qualify as the national committee of a political party.

Determination of national committee status would permit the Citizens Party to accept contributions subject to the annual limit (\$20,000 or \$15,000) of 2 U.S.C. §441a(a) and to make limited national party expenditures as provided by 2 U.S.C. §441a(d). The Commission did not express an opinion, however, on the applicability of public funding provisions of the Act to possible activities by the Citizens Party and its potential Presidential candidate since the Executive Committee did not present any specific transaction or activity related to these provisions of the Act. (Date Issued: March 4, 1980; Length: 3 pages)

AO 1980-7: Political Contributions by State-Chartered Corporation

The Central Capital Corporation (Central Capital), a wholly owned subsidiary of Central Savings and Loan Association (Central Federal), may make contributions to candidates for state and local office as permitted by California law.

Central Federal is a federally chartered corporation; its subsidiary Central Capital is a state-chartered corporation. Although the Act prohibits a federally chartered corporation from making contributions or expenditures in connection with any election for any political office (2 U.S.C. §441b), that prohibition does not extend to a state-chartered subsidiary provided that it is a distinct legal entity from its parent corporation. In this case, as long as there are no circumstances to suggest Central Capital and Central Federal are one entity, Central Capital is not subject to the Sec. 441b prohibition on contributions by federally chartered corporations. (Date Issued: March 4, 1980; Length: 2 pages)

CLEARINGHOUSE

SUBSCRIPTIONS TO ELECTION LAW UPDATES AND ELECTION CASE LAW SERIES

The following subscriptions are available from the FEC's Clearinghouse:

- *Election Law Updates*. This quarterly series includes a synopsis of all key federal and state election laws, a comprehensive index to aid in research and an annual cumulative summary. Subscription price: \$11.00 a year.
- *Election Case Law*. This quarterly series is similar in design and concept to the *Election Law Updates*. All federal and state election cases are summarized and indexed. Subscription price: \$10.00 a year.

Please do not send checks or money orders to the Commission. For information on how to subscribe, please write: Clearinghouse - FEC, 1325 K Street, N.W., Washington, D.C. 20463; or call 202/523-4183 locally or toll-free 800/424-9530.

FEC PUBLIC APPEARANCES

In keeping with its objective of making information available to the public, the Federal Election Commission regularly accepts invitations to address public gatherings on the subject of campaign finance laws and the Commission itself. This regular column lists scheduled Commission appearances, detailing the name of the sponsoring organization, the location of the event and the name of the Commission's speaker. For additional information on any scheduled appearance, please contact the sponsoring organization.

- 4/3 Southern Methodist University
Edwin Cox School of Business
The Corporation and Practical Politics
Dallas, Texas
Commissioner Joan Aikens
- 4/10-11 Amer. Law Institute/Amer. Bar Association
Legal Aspects of Political Campaigns
Arlington, Virginia
Chairman Robert Tiernan
Louise Wides, Dep. Asst. Staff Director
for Information Services
- 4/11-12 Syracuse University
Seminar on Public Regulation of Politics
Syracuse, New York
Bill Loughrey, Deputy Staff Director
- 4/18 Hamline University School of Law
Advanced Legal Education Seminar
St. Paul, Minnesota
N. Bradley Litchfield, Assistant General
Counsel for Policy
- 4/22 Tulsa County Bar Association
Corporate Counsel Section
Tulsa, Oklahoma
Commissioner Joan Aikens

COMPLIANCE

COMMISSION ADOPTS INTERIM ENFORCEMENT PROCEDURES

On February 29, 1980, the Commission sent Congress amended regulations, including new enforcement provisions, which conform to the 1979 Amendments to the Act. Until the regulations are prescribed by the Commission (see article above, p. 2), the Commission will follow the interim enforcement procedures adopted on February 7, 1980, which are detailed below. These procedures closely follow the language of the statute and are embodied in the newly proposed regulations.

Complaint and Respondent's Right to Respond

Complaints filed with the Commission will be referred to the Office of General Counsel where they will be given a MUR (matter under review) number. Within five days of receiving a complaint, the Commission will notify the respondent(s) in writing that the complaint has been filed and enclose a copy of the complaint. The respondent(s) will then have 15 days to demonstrate, in writing, that no action should be taken against him/her. The complainant will also be notified at this time that the Commission has received the complaint.

Preliminary Analysis and Recommendation by OGC

At the end of 15 days (plus five days allowed for mailing), the Office of General Counsel will prepare a report for the Commissioners, based on a preliminary legal and factual analysis of the complaint and any submission made by the respondent(s). A copy of the respondent's submission will be attached to the Office of General Counsel's report. This initial report may recommend that the Commission:

1. Find "reason to believe" the complaint sets forth a possible violation of the Act and that the Commission conduct an investigation of the matter;
2. find "no reason to believe" the Act has been violated and take no further action on the matter; or
3. take no action.

"Reason to Believe" Finding and Investigation

If, by an affirmative vote of four Commissioners, the Commission decides that there is "reason to believe" a violation of the Act has occurred, the Office of General Counsel will open an investigation into the matter. During the investigation, the Commission may subpoena documents, subpoena individuals to appear for deposition and order answers to interrogatories.

Informal Conciliation Agreement

If, during the period of investigation, the respondent(s) indicate a desire to enter into conciliation, the Office of General Counsel staff may begin an informal conciliation process. Any agreement must be adopted by an affirmative vote of four Commissioners before it becomes final. After it has been signed by the General Counsel and the respondent(s), the Commission will make the conciliation agreement public and the case will be closed.

"Probable Cause to Believe" Finding and Respondent's Right to Respond

If the investigation warrants further action, the Office of General Counsel must notify the respondent(s) of its intent to recommend that the Commission vote on whether there is "probable cause to believe" the Act has been violated. The notification must include a brief which details the position of the General Counsel on the legal and factual issues of the case. Within 15 days of receiving the brief, the respondent(s) may reply to the brief, presenting his/her position. The Commission must consider both briefs before taking further action.

Formal Conciliation Agreement

If the Commission then determines by an affirmative vote of four Commissioners that there is "probable cause to believe" the Act has been violated, formal conciliation must be undertaken for at least 30 days, but no longer than 90 days. If formal conciliation fails, the Office of General Counsel may recommend that the Commission file a civil suit against the respondent(s) to enforce the Act. If, on the other hand, an agreement is reached, it will be made public by the Commission.

THE LAW IN THE COURTS

APPEALS COURT ORDERS DISMISSAL OF CLITRIM SUIT

On February 2, 1980, the U.S. Court of Appeals for the Second Circuit remanded *FEC v. Central Long Island Tax Reform Immediately, et al.* to the District Court for the Eastern District of New York with an order to dismiss the suit.

The Federal Election Commission (FEC) originally filed the suit on August 1, 1978, alleging that violations of the Act occurred when the Central Long Island Tax Reform Immediately Committee (CLITRIM) published a pamphlet for general circulation in October 1976 at a cost of more than \$100. The FEC claimed that, in publishing and distributing the pamphlet, defendants violated the following provisions of the Act:

- 2 U.S.C. §434(e), which requires any "person . . . who makes . . . independent expenditures expressly advocating the election or defeat of a clearly identified candidate" in an amount exceeding \$100 in any calendar year to report such costs to the FEC; and
- 2 U.S.C. §441d, which requires any person who "makes an expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate" to state in the communication whether it is authorized by a candidate, his authorized political committees or their agents or any other unauthorized person.

In its motion to dismiss the case, CLITRIM argued that, in its *Buckley v. Valeo* decision, the Supreme Court had specifically mandated that the Act be amended to regulate only expenditures or communications by persons "expressly advocating the election or defeat of a clearly identified

candidate" (*Buckley v. Valeo*, 424 U.S. 1 (1976) at 43). Further, "express advocacy" must include at least one of the phrases suggested by the Court in *Buckley v. Valeo*: " 'vote for', 'elect', 'support', 'cast your ballot for', 'Smith for Congress', 'Vote Against', 'defeat', 'reject'." (424 U.S. 1 (1976) at 52.) CLITRIM pointed out that the *TRIM Bulletin* did not contain any of the terms of "express advocacy" spelled out in *Buckley v. Valeo*.

Responding to this argument in one of its reply briefs filed with the Court of Appeals, the FEC maintained that the CLITRIM/National Trim bulletin was not merely an informational or educational compilation of Congressional voting records. The bulletin discussed TRIM's position on the issue of high taxes and big government, identified federal candidates, critiqued their position on the issue of high taxes and big government and urged the voter to vote with TRIM. The Commission interpreted these communications as "express advocacy" communications within the meaning of 2 U.S.C. §434(e) and as construed by the Supreme Court in *Buckley v. Valeo* (424 U.S. 1 (1976) at 44 N. 52).

In reaching its decision to dismiss the case, the Court of Appeals concluded that the *CLITRIM Bulletin* did not "expressly advocate" the election or defeat of a candidate within the meaning of 2 U.S.C. §434(e) and 441d. Since, as interpreted by the Court, these provisions of the Act did not apply to defendants' conduct, the Court concluded the constitutional issues raised by defendants in the case would not present a case ripe for consideration by the Court.

On February 25, 1980, National TRIM and John W. Robbins, intervenor in the case, petitioned the Court of Appeals for a rehearing. Defendants sought injunctive relief from FEC enforcement proceedings brought against local TRIM committees which were not affected by the Court's February 2 order to dismiss the case. On March 5, 1980, the petition for rehearing was denied by the Court of Appeals.

SUPREME COURT DENIES HEARING TO THREE SUITS

On February 19, 1980, the Supreme Court denied a petition for *certiorari* in three cases brought by Lyndon H. La Rouche, et al. and Leroy B. Jones, et al. The Federal Election Commission, as respondent in the suits, had filed a brief opposing the petition. Plaintiffs' petition sought review by the Court of decisions of the U.S. Court of Appeals for the District of Columbia in the following cases:

In *Committee To Elect Lyndon La Rouche v. FEC*, the Court of Appeals had upheld the Commission's action in denying primary matching fund payments to Lyndon La Rouche, candidate of the U.S. Labor Party, during the 1976 Presidential primary campaign.

In *FEC v. Committee to Elect Lyndon La Rouche, et al.* the Court of Appeals had upheld three actions of the U.S. District Court for the District of Columbia in a suit which had been filed on September 28, 1977, by the Committee to Elect Lyndon La Rouche, the National Caucus of Labor

continued

Committees, the New Solidarity International Press Service, Inc., and Campaigner Publications, Inc. In upholding the District Court's action, the Court of Appeals held that:

1. The District Court had jurisdiction to determine this case despite appellants' argument that the District of Columbia was not the place where the Commission's inquiry took place;
2. The District Court had personal jurisdiction over the appellants despite the fact that they were served in New York rather than in the District of Columbia; and
3. The District Court had not denied the appellants an opportunity to demonstrate that the Commission had issued the subpoenas in retaliation for two suits which the appellants had brought against the Commission.

In *LeRoy B. Jones, et al. v. FEC*, the plaintiffs had challenged the Commission's field interviews of La Rouche contributors, the manner in which the interviews were conducted and the scope of the questions asked on constitutional and statutory grounds. The District Court had granted summary judgment to the FEC. The Court of Appeals had upheld the District Court's action with respect to all but two of the allegations made by plaintiffs.

The three suits are summarized in detail in the October 1979 issue of the *FEC Record*, available on request in the Commission's Public Records Office.

LITIGATION STATUS INFORMATION

The following is a list of new litigation involving the Commission, together with the date the suit was filed, the court involved, the docket number and a brief description of the major issue(s) involved in the case. Persons seeking additional information on a particular case should contact the court where the suit is filed or the Commission.

FEC v. Jeffrey Bell, U.S. District Court for the District of New Jersey, Docket No. 80-174, January 21, 1980.

FEC alleges that Jeffrey Bell, a candidate for the U.S. Senate from New Jersey in 1978, violated 2 U.S.C. §441a(f) by accepting excessive contributions from his mother.

International Association of Machinists v. FEC, U.S. District Court for the District of Columbia, Docket No. 80-0354, February 4, 1980.

Plaintiffs seek declaratory relief pursuant to 2 U.S.C. §437g(a)(8), alleging that the FEC acted contrary to law in dismissing an administrative complaint filed by plaintiffs. If the Court does not take this action, plaintiffs seek certification of the following constitutional issues to an *en banc* court of appeals, pursuant to 2 U.S.C. §437h(a):

1. Whether first Amendment rights of unprotected career employees are violated by provisions of the Act authorizing corporations to solicit campaign contributions from them;
2. Whether First and Fifth Amendment rights of unions and their members are violated, and unions are discriminated against, by the

- Act's ban on corporate and union political contributions (2 U.S.C. §441b(a)); and
3. Whether First Amendment rights of corporate stockholders are violated by 2 U.S.C. §441b(b)(2)(C), which authorizes use of corporate assets for the costs of raising political contributions.

FEDERAL REGISTER NOTICES

The list below identifies all FEC documents which appeared in the *Federal Register* between January 7, 1980, and March 10, 1980. Copies of these notices are not available from the FEC.

Notice	Title	Federal Register Publication Date	Citation
1980-1	Notice of Designation of Official to Receive Presidential Primary Candidate Certification of Inactive Status.	1/22/80	45 FR 4999
1980-2	Draft Regulations to Implement 1979 Amendments to the Federal Election Campaign Act (published for comment).	1/23/80	45 FR 5546
1980-3	Notice to Committees Filing Year-End Reports.	1/28/80	45 FR 6475
1980-4	Presidential Election Campaign Fund; Presidential Primary Matching Fund. (FEC prescribes proposed Regulations.)	2/12/80	45 FR 9559
1980-5	Filing Date for Pennsylvania Special General Election	2/28/80	45 FR 13411
1980-6	Contributions to and Expenditures by Delegates to National Nominating Conventions. (Draft regulations published for comment.)	3/3/80	45 FR 13766
1980-7	Opinion and Regulation Index Supplements	3/3/80	45 FR 13816
1980-8	Amendments to Federal Election Campaign Act of 1971; Regulations Transmitted to Congress	3/7/80	45 FR 15080

PUBLIC FINANCING

MATCHING FUNDS CERTIFIED TO '76 CARTER CAMPAIGN

On February 21, 1980, the Commission approved a matching fund certification of \$88,293.92 to the Committee for Jimmy Carter (the Committee). The payment will be used by the Committee to liquidate net outstanding campaign obligations of \$116,616.52 remaining from the Committee's campaign activities in the 1976 Presidential primaries. In calculating total payments it would certify to the Committee, the Commission deducted the following funds from the Committee's net outstanding campaign obligations:

- \$19,500, an amount equivalent to funds transferred by the Committee in 1978 and 1979 to the 1976 Democratic Presidential Campaign Committee, Inc. (the principal campaign committee for Carter's general election campaign);
- \$2,950 in civil penalties paid by the Committee to the U.S. Treasury in 1978; and
- \$5,872.60 repaid by the Committee to the U.S. Treasury in 1978 for insufficiently documented - and therefore nonqualified - campaign expenses.

FEC CERTIFIES FUNDS FOR TEN CANDIDATES

By February 27, 1980, the FEC had certified a total of \$12,725,834.18 in federal funds to ten Presidential candidates eligible to receive matching payments for the 1980 Presidential primary election. The chart below lists the cumulative amount of certified funds which each candidate had received as of February 27, 1980:

Candidate	Cumulative Certifications
John B. Anderson	\$ 447,008.13
Howard H. Baker, Jr.	1,555,092.45
Edmund G. Brown, Jr.	607,189.14
George Bush, Jr.	1,318,394.47
Jimmy E. Carter	2,310,018.88
Philip M. Crane	1,090,447.90
Robert Dole	368,199.98
Edward M. Kennedy	1,553,365.15
Lyndon H. LaRouche	354,766.59
Ronald Reagan	3,121,351.49

To be eligible to receive federal matching funds, a candidate must first raise \$100,000 in amounts of \$5,000 or more from each of 20 states, contributed by individuals in amounts of no more than \$250. While individuals may contribute up to \$1,000 to a candidate, only the first \$250 is matchable. Candidates must also agree to abide by spending limits, keep detailed records and submit those records for audit. Candidates may submit requests for funds on the first, third and fifth Monday of each month. The Commission certifies a percentage of the amount requested within one week of receiving the request.

In addition, the Democratic and Republican National Committees have each received a maximum entitlement of \$4,416,000 to finance their respective 1980 Presidential nominating conventions.

AUDITS

AUDITS RELEASED TO THE PUBLIC

The Federal Election Campaign Act, as amended (the Act) requires candidates and political committees to file financial disclosure reports with the Commission. The Act also gives the Commission authority to audit campaigns of all Presidential candidates who receive public funds, and the reports of other political committees. Final audit reports are available to the press through the Press Office and to the general public through the Office of Public Records. The following is a chronological listing of audits released between January 7, 1980, and March 10, 1980:

Audit	Date Made Public
1. Constructive Citizenship Program	1/8/80
2. Southwestern Committee on Political Education	1/8/80
3. Vision Political Action Committee	1/15/80
4. Committee to Elect Ronnie Gene Flippo, AL/5	1/15/80
5. Evans for Congress Campaign Fund, GA/8	1/15/80
6. North Pacific Dairymen's Cooperative Trust	2/5/80
7. Kansas Republican State Committee/ Kansas Republican Federal Campaign Committee	2/5/80
8. National Republican Heritage Groups Council Convention 1976	2/12/80
9. National Republican Heritage Groups 1977 Convention Committee	2/12/80
10. Del Monte Voluntary Nonpartisan Good Government Fund	2/12/80
11. 1978 National Party Conference Arrangements Committee, Inc.	2/12/80
12. Active Ballot Club, A Department of the Retail Clerks International Union	2/12/80
13. Texas Republican Congressional Committee	2/20/80

PUBLICATIONS

SUPPLEMENT TO 1979 AMENDMENTS AND 1979 RECORD INDEX AVAILABLE

A special *Supplement* summarizing the 1979 Amendments to the Federal Election Campaign Act has been sent to all *Record* subscribers. The *Supplement* outlines changes in the Act which affect the following groups: All Committees; Candidates and Their Authorized Committees; Party Political Committees; and Nonparty, Noncandidate Com-

mittees. The *Supplement* also includes information on changes which affect independent expenditures and Commission powers.

The 1979 *Record Index* has also been sent to *Record* subscribers. The *Index* enables the reader to identify and document Commission decisions made during 1979. Advisory opinions and litigation, for example, are indexed by several subject entries and by name of the parties involved.

Additional copies of the *Supplement* and the *Index* are available through the FEC Office of Public Communications, 1325 K Street, N.W., Washington, D.C. 20463; or by calling 202/523-4068 or toll-free 800/424-9530.

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