



THE FEDERAL ELECTION COMMISSION

RECORD

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

Volume 6, Number 7

July 1980

REPORTS

REPORTS DUE IN JULY

Political committees listed below are required to file quarterly reports by July 15, monthly reports by July 20 or semiannual reports by July 31.

Who Reports in July

The following thresholds trigger registration and reporting requirements for political committees:

1. *Authorized candidate committees* (including principal campaign committees) register and report when the committees and/or the candidate that they support have together received contributions aggregating in excess of \$5,000 for the election cycle or made expenditures and/or incurred debts in excess of \$5,000 for the election cycle.
2. *Local party organizations* register as political committees and report when they have:
 - Received contributions aggregating in excess of \$5,000 a year;
 - Spent more than \$5,000 a year for certain payments that are exempt from the definitions of contribution and expenditure (2 U.S.C. §431(8)(B)(v), (x) and (xii));
 - Made expenditures aggregating in excess of \$1,000 a year; or
 - Made contributions aggregating in excess of \$1,000 a year.
3. *Separate segregated funds* (political action committees or PAC's) must register and report regardless of the amount of their financial activity.
4. *All other political committees* must register and report when they have received contributions aggregating in excess of \$1,000 or made expenditures and/or incurred debts aggregating in excess of \$1,000 per calendar year.

Who Need Not Report

The following persons are **not** required to file a report in July:

1. *Candidates.* As an agent of the campaign, the candidate must report to the principal campaign committee any personal financial activity related to the campaign.
2. *Committees authorized by individuals who are not candidates under the Act.* Authorized political committees which have not received contributions aggregating in

excess of \$5,000 for the election cycle or made expenditures and/or incurred debts aggregating in excess of \$5,000 for the election cycle have no reporting obligations under the Act. Committees which fall below these thresholds should contact the FEC's Office of Public Communications for termination procedures. See below.)

When Reports Are Filed

Quarterly Reports. The treasurer of the political committee (other than monthly or semiannual filers, see below) must file a quarterly report by July 15 regardless of the amount of funds received or expended by the committee during the quarter. (FEC Form 3a, the 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 June 30, 1980.

Monthly Reports.

1. The treasurer of each principal campaign committee of a Presidential candidate which has received contributions or made expenditures aggregating \$100,000 or more (or anticipates doing so) must file a monthly report by July 20. 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.
2. All committees **not** authorized by a candidate, which file on a monthly basis, must file their monthly report by July 20.

The reports of monthly filers must cover all transactions that occurred between June 1 and June 30, 1980.

Semiannual Reports. Committees authorized by candidates seeking election in a year other than 1980 (e.g., candidates seeking a U.S. Senate seat in 1982 or former candidates with campaign debts) are required to file a semiannual report by July 31. The report covers the period from January 1 through June 30, 1980, or (if the committee is new) from the date of inception through June 30. The treasurer must file the complete report, including all appropriate schedules, regardless of the amount of funds received or expended during the reporting period. (FEC Form 3a, the postcard waiver, is not an acceptable filing.)

continued

Where Reports Are Filed

Political committees must file their reports with the appropriate federal and state offices. Correct filing procedures may be obtained by consulting the instructions on the back of the reporting forms (Form 3, 3P or 3X).

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 3Z with the appropriate offices.

Reporting Forms

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

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

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.

FEC APPROVES REVISED REPORTING FORMS

On June 12, 1980, the Commission transmitted to Congress revised versions of FEC reporting Forms 4, 5 and 7. Revisions in the forms, highlighted below, eliminate reporting problems which occurred during the 1976 elections and reflect the 1979 Amendments to the Act:

FEC Form 4 (Convention Report Form) requires committees to categorize their receipts in more detail than in the past. For example, contributions received to defray convention expenses must now be reported separately from other types of receipts. The revised form also contains line-by-line reporting instructions and includes the schedules for itemizing receipts, disbursements, loans, and debts and obligations.

NOTE: Convention committees may file on either the old or the new Form 4 for the 1980 elections.

FEC Form 5 (Report of Independent Expenditures and Contributions Received) requires a person (other than a political committee) who makes an independent expenditure to report the expenditure (once it exceeds \$250) and the receipt of any contribution (in excess of \$200) to further an independent expenditure. The person making a contribution for an independent expenditure no longer has

to report. The form also contains new line-by-line instructions.

FEC Form 7 (Report of Communication Costs) has been changed to incorporate the new reporting dates contained in the 1979 Amendments.

SPECIAL ELECTIONS IN MICHIGAN

Michigan has scheduled a special primary election for August 5 to fill the seat vacated by Congressman Charles C. Diggs, Jr., former Representative from the 13th Congressional District. A special general election will be held on November 4, 1980. (Note: These special elections will be held on the same dates as the regularly scheduled primary and general elections.) All individuals on the ballot in these special elections and their principal campaign committees will receive special notices from the FEC on their reporting requirements and filing dates. All other committees supporting candidates in the special elections 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.

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**.

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|------|--|
| 7/2 | Washington Semester Program
American University
Washington, D.C.
Vice Chairman John Warren McGarry |
| 7/10 | Election Seminar
Hunter College
New York, New York
Vice Chairman John Warren McGarry |
| 7/11 | Robert A. Taft Institute of Politics
Rhode Island College
Providence, Rhode Island
Commissioner Robert O. Tiernan |

The RECORD is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Max L. Friedersdorf, Chairman; John Warren McGarry, Vice Chairman; Joan D. Aikens; Thomas E. Harris; Frank P. Reiche; Robert O. Tiernan; J.S. Kimmitt, Secretary of the Senate, Ex Officio; Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Ex Officio. For more information, call 202/523-4068 or toll-free 800/424-9530.

REGULATIONS

DELEGATE SELECTION REGULATIONS SENT TO CONGRESS

On May 14, 1980, the Commission transmitted to Congress proposed regulations governing contributions to and expenditures by individuals seeking nomination as delegates to national nominating conventions (11 CFR Parts 100 and 110). These regulations address all levels of the delegate selection process, including the role of state and local party committees. They spell out reporting obligations as well as treatment of contributions and expenditures by delegates and delegate committees. Major provisions of these new regulations implementing the Act (2 U.S.C. §431 et seq.) are highlighted below.

Contributions to Delegates*

Contributions from Persons. Since a delegate does not seek nomination or election to federal office, he or she is not a "candidate" under the Act. Therefore, the reporting requirements and contribution limits (per candidate) of the Act do not apply to contributions made to promote an individual's selection as a delegate to a national nominating convention. 11 CFR 110.14(c). However, since the contributions to a delegate are made for the purpose of influencing a federal election (i.e., a national nominating convention or a primary election or caucus held to select delegates to a national convention), they would count against the individual contributor's aggregate contribution limit of \$25,000 per calendar year. Moreover, contributions may not be made from sources prohibited under the Act (e.g., corporations or labor unions). 11 CFR 110.14(f).

Contributions from Presidential Campaign Committees. Contributions to a delegate by the campaign committee of a Presidential candidate, who has received matching funds, are chargeable to the Presidential candidate's spending limits. 11 CFR 110.14(c).

Expenditures by Delegates

Expenditures to Promote Candidacy Only. Expenditures by a delegate to promote only the individual's selection as a delegate are not limited or reportable. Nor would they be chargeable to a Presidential candidate's spending limits. Moreover, the regulations permit individuals to make these expenditures from their personal funds.

Example: An individual could spend any amount during the delegate selection process for communications advocating his/her selection or for travel and living expenses, including travel to the national nominating convention. These payments would not be reportable. 11 CFR 110.14(d).

Expenditures for Campaign Materials. Expenditures made by a delegate for certain campaign materials (e.g., pins, bumper stickers, handbills, brochures or yard signs) that advocate his or her selection and also refer to a Presidential

candidate are not limited or reportable, as long as they are used only in connection with volunteer activities. These expenditures would not be considered contributions to the Presidential candidate or expenditures chargeable to the Presidential candidate's spending limits. 11 CFR 110.14(d).

Expenditures for Public Media. Payments made by a delegate for political advertising directed to the general public (e.g., communications in broadcast media, newspapers, magazines or direct mail) which advocates the individual's selection as a delegate and refers to a Presidential candidate are not limited or reportable unless they qualify as either a contribution in-kind to or an independent expenditure on behalf of the Presidential campaign. 11 CFR 110.14(d)(ii). Under these circumstances, expenditures for public media would be subject to the following provisions of the Act:

1. *An in-kind contribution to the Presidential candidate.* If an individual seeking selection as a delegate makes a media expenditure in consultation with the Presidential candidate or his/her campaign, that portion of the expenditure allocable to the Presidential candidate would be considered an in-kind contribution and would also count against the Presidential candidate's spending limits (if the candidate had received public funds). 11 CFR 110.14(d)(ii)(A)(1). The Presidential candidate would have the reporting responsibility.
2. *An independent expenditure on behalf of the Presidential candidate.* If the political advertising expressly advocates the election of a clearly identified candidate and is not prepared in consultation with the candidate or his/her campaign, that portion of media costs allocable to the Presidential candidate would be reportable as an independent expenditure by the individual seeking selection as a delegate, once the costs exceed \$250. 11 CFR 110.14(d)(ii)(B).

Delegate Committees

If several persons, acting as a group, support the selection of delegate(s) by receiving contributions or making expenditures which exceed \$1,000 a year, the group would become a political committee. This delegate committee would be subject to the standard registration and reporting requirements, contribution limits and prohibitions of the Act. 11 CFR 110.14(e).

Party Committees

Administrative expenses incurred by local, county, district or state party committees for sponsoring conventions or caucuses to select delegates are not reportable, but may not be paid with contributions which are prohibited under the Act. 11 CFR 110.14(g)(1).

Ballot fees paid to state or district party committees by individuals to qualify as delegate candidates are not contributions or expenditures under the Act. These payments are not subject to any spending limits and are not reportable. 11 CFR 110.14(g)(2).

These delegate selection regulations were published in the May 23, 1980, issue of the *Federal Register* (45 FR 34865). They will be promulgated 30 legislative days after their transmittal to Congress, provided neither the House nor the Senate disapproves them.

*The term "delegate" includes both delegates and individuals seeking selection as delegates to national nominating conventions.

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
1980-61	Application of contribution and expenditure limits to independent expenditure committee for the Presidential general election.	5/19/80	3
1980-62	Solicitations by labor union's separate segregated fund.	5/20/80	3
1980-63	Costs of volunteer fundraising as reportable expenditure.	5/23/80	1
1980-64	Labor organization's payment of travel and living expenses for delegates to national convention.	5/27/80	8
1980-65	Trade association's solicitation of personnel of its corporate members.	5/28/80	3
1980-66	Voter registration activities conducted by nonprofit, unincorporated association.	5/29/80	8
1980-67	Solicitation notice for invitation to candidate reception; combined contributions by spouses on single check.	6/3/80	5
1980-68	Post-dated contributions for possible election.	6/3/80	1
1980-69	Contribution Direction Authorization form for labor union's separate segregated fund.	6/9/80	2
1980-70	Campaign materials purchased from independent expenditure committee.	6/10/80	6
1980-71	Solicitation notice for fundraising literature of corporate separate segregated fund.	6/10/80	5
1980-72	Political contribution plan administered by law firm for individual members.	6/10/80	4
1980-73	Presidential candidates' participation in senior citizen program funded by corporation.	6/13/80	4
1980-74	Deduction from vacation fund for labor union separate segregated fund.	6/16/80	4
1980-75	Trade association's solicitation of membership.	6/17/80	15

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUESTS

- In response to AOR 1980-15 (nonpartisan voter information announcements by corporation), the General Counsel informed the requester in a letter issued June 6, 1980, that the Commission had failed to approve an advisory opinion by the requisite four-vote majority.
- AOR 1980-52 was withdrawn by its requester on May 28, 1980.

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR's. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. 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 1979-69: Trade Association's Solicitation of Associate Members

The Alaska Loggers Association/Clarence Kramer Political Action Committee (ALA/PAC), the separate segregated fund of the Alaska Loggers' Association, Inc. (ALA), may not solicit "associate members" of ALA.

While the Act and Commission Regulations permit a trade association, or its separate segregated fund, to solicit contributions to the fund from its members, ALA's associate members do not meet the criteria for membership. 11 CFR 114.1(e). Specifically, an incorporated membership organization without capital stock may only solicit "members" or those persons who have interests and rights in the organization, who assume some right to participate in the organization's direction, and who have an obligation to help sustain the organization through regular financial contributions. Since ALA's bylaws specifically state that its associate members do "not have the right to vote at any meeting or have any voice in ALA or any control over its officers," the associate members are not, therefore, "members" of ALA as defined by 11 CFR 114.1(e). (Date Issued: May 13, 1980; Length: 3 pages)

AO 1980-30: Conversion of 1980 Campaign Committee Into 1982 Campaign Committee

Excess campaign funds from Frank Askin's 1980 Congressional campaign may be used for any lawful purpose, but may not be converted to personal use. 2 U.S.C. §439a. Mr. Askin, previously registered as a House candidate seeking nomination in New Jersey's June 3 primary, ceased to be a candidate for that election on March 10, 1980. On that date, he amended his Statement of Candidacy, redesignating his 1980 campaign committee as the principal campaign committee for his 1982 election. Assuming that there were no outstanding debts or obligations from Mr. Askin's 1980 primary campaign, the funds remaining from the 1980 campaign may be used for:

1. Making pro rata refunds to contributors to the 1980 campaign; and

2. Supporting the candidate's nomination in the 1982 primary election.

The 1982 campaign committee must, however, report refunds of contributions. 11 CFR 104.3(b)(2)(v)(A) and (B).

Undesignated contributions received between March 10 (the date on which Mr. Askin ceased to be a candidate for the 1980 election and became a candidate for the 1982 election) and the 1982 primary count toward his 1982 primary election. A contributor to his 1980 campaign (prior to March 10, 1980) may also contribute to his 1982 primary election. A separate contribution limit applies to each election.

Because Mr. Askin is now a candidate only for an election in 1982, his committee must file semiannual reports, required during a nonelection year, rather than quarterly reports, required during election years. 11 CFR 104.5(a). The committee must identify (on Schedule A) each person contributing in excess of \$200 during 1980, regardless of whether the contributions were for the 1980 or 1982 election. The report should include a notation, however, indicating the election for which the contribution was intended.

Expenses paid by the campaign committee for publishing and distributing a newsletter promoting Mr. Askin's candidacy as a delegate to the Democratic National Convention must be reported by the committee. 2 U.S.C. §434. Since a reference to Senator Edward Kennedy (to whom the candidate had pledged his support) was not made in consultation with the Senator or any of his authorized committees or agents, the committee does not have to report a portion of the newsletter expenses as an in-kind contribution to Senator Kennedy. Nor are the expenses chargeable to Senator Kennedy's expenditure limit. 2 U.S.C. §441a(b).

If Mr. Askin's Congressional district is redesignated as a result of redistricting, the 1982 campaign committee must amend its Statement of Organization (FEC Form 1) to reflect the change. Commissioner Frank P. Reiche filed a concurring opinion. (Date Issued: May 30, 1980; Length: 9 pages, including concurring opinion.)

AO 1980-32: Use of Excess Campaign Funds to Retire Campaign Debts

The Dannemeyer for Congress Committee (the Committee) may use excess campaign funds raised in 1979 to retire debts of the candidate's 1978 campaign for Congress and his 1976 campaign for state assembly, if permitted by state law.

Since the Committee's 1979 fundraising occurred after it had begun to engage in financial activity for Mr. Dannemeyer's 1980 Congressional campaign, and since the Committee was not specific as to the proposed use of the funds raised, the funds received in 1979 count as contributions to his 1980 election. The Act and Commission Regulations permit political committees to use excess campaign funds for a variety of specified purposes and for "any other lawful purpose." 2 U.S.C. §439a; 11 CFR 113.2. The Committee's use of 1980 excess campaign funds to retire debts of previous campaigns is considered a "lawful purpose." Commissioners Thomas E. Harris and Frank P.

Reiche filed a dissenting opinion. (Date Issued: May 21, 1980; Length: 5 pages, including dissenting opinion.)

AO 1980-34: Artwork Donated to (and Sold by) Political Committee

Volunteer services supplied by artists in creating artwork for the Connally for President Committee (the Committee) would not constitute a contribution to the Committee, as long as the Committee reimburses the artists for the costs of artwork materials. However, the full purchase price of each artwork, when later sold by the committee, would constitute a contribution to the Committee by the purchaser and would be subject to the Act's limits and prohibitions on contributions. 2 U.S.C. § §441a, 441b, 441c and 441e.

The sale of the artwork by an art dealer would constitute a political fundraising activity (rather than a commercial transaction) since revenue from the sale of the artwork would be transmitted to, and used by, the Committee to retire its campaign debts. Accordingly, the Committee would have to instruct the art dealer to:

- Identify each artwork as part of the Connally Committee collection; and
- Advise potential buyers that the proceeds from the sale of the artwork count as a contribution to the Committee.

Further, all the Committee's financial transactions related to the sale of the artwork, reimbursements to the artists for basic materials used to create the artwork, and the commission paid to the art dealer would have to be reported by the Committee as expenditures, according to the provisions of 2 U.S.C. §434.

The Commission expressed no opinion on the possible application of tax laws to the artwork sales since those issues are not within its jurisdiction. Commissioner Frank P. Reiche filed a dissenting opinion. (Date Issued: May 23, 1980; Length: 7 pages including dissenting opinion.)

AO 1980-37: Contributions from Government Contractor

The Stenholm for Congress Committee (the Committee) must refund contributions received from a government contractor and disclose the refund in its next report.

The contributions must be returned because the contributor, the sole proprietor of a trucking business involved in four contracts with the U.S. Postal Service, is specifically prohibited by the Act and Commission Regulations from making contributions or expenditures to influence federal elections from business, personal or other funds under his control. 11 CFR 115.5. (Date Issued: May 23, 1980; Length: 2 pages)

AO 1980-38: Allocation of Computer-Use Expenses Between State and Federal Committee

An agreement to allocate computer rental and data entry costs between the Allen for Congress Committee (the Federal Committee) and the campaign committee of a Michigan legislative candidate (the State Committee) is permitted by Commission Regulations provided that the committees allocate costs in a manner that reflects the actual use and benefit to each campaign. 11 CFR 106.1 and 110.8(d)(3).

continued

Under the agreement, the two campaign committees would evenly divide computer costs for data entry of voter information in areas where their legislative and Congressional districts overlap. Each campaign committee would then absorb all costs of data entry and rental in areas that do not overlap. To ease bookkeeping requirements, the Federal Committee has paid all data entry costs and the State Committee has paid a security deposit and rental for the use of the computer. Each committee plans to reimburse the other for those costs assignable to it. The computer costs would be reported as follows:

Payments by the Federal Committee

Since the Federal Committee's payments for data entry of voter information are not for the purpose of influencing the state candidate's election, but rather for the purpose of influencing Mr. Allen's reelection, the Federal Committee must report the data entry costs as **operating expenditures**. 11 CFR 104.3(b)(2)(i).

Reimbursements by the State Committee to the Federal Committee

Reimbursements to the Federal Committee by the State Committee for its share of the data entry costs must be reported by the Federal Committee as **receipts** in the form of offsets to operating expenditures. 11 CFR 104.3(a)(3)(ix)(A), (B) and (C). Since payments to the Federal Committee must be from funds permissible under the Act, and since the State Committee is not a political committee under the Act, the State Committee must establish one of the following accounting procedures if it accepts funds prohibited by the Act:

1. Establish a separate account for funds permissible under the Act and from which payments to the Federal Committee would be made; or
2. Demonstrate through a reasonable accounting method that, whenever such payments are made, the State Committee has received sufficient funds permissible under the Act to make payments to the Federal Committee.

In addition, the State Committee must keep records, which it will make available to the Commission upon request. 11 CFR 102.5(b)(1)(i) and (ii) and 100.7(a)(1)(i)(D).

Federal Committee's Obligations to the State Committee

The Federal Committee's obligations to the State Committee for its outstanding share of the computer rental and security deposit are expenditures by the Federal Committee. 11 CFR 100.8(a)(2). **If the committees' agreement was in writing**, the Federal Committee must report its obligations as of the date the agreement was made. **If the agreement was not in writing**, the Federal Committee must report the obligation and actual payments according to 11 CFR 104.11.

The Commission expressed no opinion on the application of Michigan law to the Federal Committee's payments to the State Committee. This opinion supersedes Advisory Opinions 1976-110 and 1978-67 with respect to payments from political organizations that are not "political committees" under the Act. (Date Issued: May 16, 1980; Length: 4 pages)

AO 1980-39: Investment of Funds in Money Market Fund

The Fluor Public Affairs Committee (Fluor-PAC), the separate segregated fund of the Fluor Corporation, may invest its campaign funds in a professionally managed money market fund (11 CFR 103.3), provided Fluor-PAC returns campaign funds invested in the money market fund to its campaign depository **before** the funds are used to make expenditures.

Although Fluor-PAC need not file an amended Statement of Organization designating the money market fund as an additional campaign depository, Fluor-PAC must fulfill the following reporting requirements:

1. Total campaign funds invested in the money market fund must be included in the total amount of funds reported by the committee as "cash-on-hand." 11 CFR 104.3(a)(1).
2. Fluor-PAC must report as a receipt any income earned on its investment. 2 U.S.C. §434(b)(2)(J) and (b)(3)(G). (Date Issued: May 16, 1980; Length: 3 pages)

AO 1980-40: Multicandidate Committee Status for Affiliated Committees

The Transamerica Corporation Political Action Committee (TRANSPAC) and its affiliated separate segregated fund, Occidental Life Insurance Company of California Political Action Committee (OXY-PAC), may qualify as multicandidate committees once they have collectively satisfied the Act's requirements for multicandidate committee status. 2 U.S.C. §441a(a)(4). Together, that is, they must have been registered for at least six months, must have received contributions from more than 50 donors and contributed to at least five federal candidates.

As affiliated committees, TRANSPAC and OXY-PAC are subject to a single contribution limit with regard to both contributions received and contributions made. 2 U.S.C. §431(4)(B) and §441a(a)(5). (Date Issued: June 9, 1980; Length: 3 pages)

AO 1980-41: Use of Candidate's Excess Campaign Funds After His Death

Excess campaign funds and assets of the Slack for Congress Committee, the principal campaign committee of the late Congressman John M. Slack, Jr., may be transferred to his family or his office staff.

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. 2 U.S.C. §439a; 11 CFR 113.2. Since, however, Mr. Slack was a member of Congress at that time, the proposed use of the funds would be permissible, provided West Virginia state law does not make the proposed transfer unlawful. (Date Issued: May 16, 1980; Length: 2 pages)

AO 1980-43: Reporting 1974 Debts by 1980 Committee

Martin Frost, a candidate for reelection to the House of Representatives in 1980, may report outstanding debts of his 1974 Congressional campaign by either one of the following methods approved by the Commission:

1. Congressman Frost's 1980 campaign committee may consolidate the 1974 campaign debts with activities reported by the 1980 campaign committee. The 1980 committee would use separate contribution schedules (Schedule A's) to identify contributions received to retire the 1974 debt and contributions received for the 1980 campaign. In addition, the committee would file a separate debt schedule (Schedule C) identifying the 1974 debts until they are retired.
2. Alternatively, Congressman Frost may continue to file separate, semiannual reports as a 1974 candidate until the debts for that election are extinguished. The 1980 Committee would continue to file quarterly. 11 CFR 104.3(d), 104.5(a)(2) and 104.11; and 2 U.S.C. §434(a)(2)(B). (Date Issued: May 23, 1980; Length: 2 pages)

AO 1980-45: Nonprofit Organization's Nonpartisan Voter Registration Drive

Planned Parenthood of New York City, Inc. (PPNYC), a nonprofit corporation, may conduct nonpartisan voter registration drives for the general public at its clinics. Commission regulations specifically permit corporations and labor organizations to support such nonpartisan voter registration drives for the general public as long as these activities are jointly sponsored with a nonpartisan, nonprofit civic group and are conducted by the civic group. 11 CFR 114.14(d). Although this regulation does not specifically address PPNYC's situation, where the qualified civic group unilaterally undertakes a voter registration drive without a corporate co-sponsor, the regulation does not require a civic group to find a corporate co-sponsor for an otherwise permissible activity. Commissioner Robert O. Tiernan will file a dissenting opinion. (Date Issued: June 11, 1980; Length: 2 pages)

AO 1980-47: Preemption of State Law Regulating Election Day Services

The Federal Election Campaign Act (the Act) does not supersede or preempt a Maryland law that would prohibit the Conroy for U.S. Senate Committee from making payments for "walk around services" performed on election day. The Maryland law defines payments for "walk around services" to include the following activities which the Conroy for U.S. Senate Committee proposed to undertake: payments to campaign workers engaged in distributing campaign literature, sample ballots, or other campaign material; serving as poll watchers; and other campaign activities performed on the day of the election. (Date Issued: May 13, 1980; Length: 3 pages)

AO 1980-48: Cooperative's Solicitation of Corporate Members' Stockholders

A separate segregated fund proposed by the Mid-States Distributing Company (Mid-States), an incorporated cooperative association, may not solicit contributions from the shareholders of its corporate members. Commission Regulations define solicitable members as "all persons who are currently satisfying requirements for membership in a cooperative." 11 CFR 114.1(e). In this case, a direct membership relation does not exist between Mid-States and the shareholders of its corporate members. Mid-States could, however, solicit its own individual members. (Date Issued: June 9, 1980; Length: 3 pages)

AO 1980-49: Use of Campaign Funds for Personal Living Expenses

Steven D. Weinstein, a Congressional candidate, may use campaign funds for ordinary and necessary living expenses incurred during the 1980 campaign. The ban on converting "excess campaign funds" to personal use, contained in the 1979 Amendments to the Act (2 U.S.C. §439a), does not affect the candidate's use of campaign funds for campaign purposes during the course of the campaign. (Date Issued: May 16, 1980; Length: 2 pages)

AO 1980-60: Contributions Accepted by Campaign Committee for Two Separate Elections

The Galperin for Congress Committee (the Committee) may accept contributions for both a nominating convention, held on April 26, 1980, to select candidates for a June 3 special general election in West Virginia, and for a regular Congressional primary election (also held on June 3). Since the nominating convention and the Congressional primary are separate elections, separate limits would apply to contributions received for these elections. 2 U.S.C. §441a(a)(6); 11 CFR 110.1(j)(1) and 110.2(d)(1). However, contributions accepted by the Committee for the nominating convention must have been received on or before April 26. Contributions received after April 26 would count as contributions for the June 3 primary election (11 CFR 110.1(a)(2)(ii)), unless the contributions are specifically designated for the convention and do not exceed the Committee's outstanding debts for the convention. (Date Issued: May 30, 1980; Length: 3 pages)



FEC DENIES LAROCHE REQUEST TO REESTABLISH MATCHING FUNDS ELIGIBILITY

On May 28, 1980, the Commission denied a request submitted by the principal campaign committee of Lyndon LaRouche to reestablish Mr. LaRouche's eligibility for primary matching funds.* (Mr. LaRouche had become ineligible for funds on April 17, 1980, when he failed to receive 10 percent of total votes cast in two consecutive primaries.) The Commission also voted to grant a one-week postponement of its audit of the LaRouche Committee originally scheduled for June 2, 1980, until June 9, 1980.

The Commission found that Mr. LaRouche had not reestablished his eligibility because he had not received 20 percent of the total votes cast in the Democratic Presidential primary election held in Michigan on May 20, 1980. 11 CFR 9033.7(b). The Commission also questioned whether the Michigan Primary constituted an "election," as defined by the Presidential Primary Matching Payment Account Act (26 U.S.C. §9032(7)), since the Michigan law establishing this election had been ruled unconstitutional by a federal district court.

*Ineligible candidates may continue to receive primary matching funds to retire outstanding campaign debts incurred before the date of ineligibility, provided certain requirements are met. See Commission Regulations at 11 CFR 9034.1.

THE LAW IN THE COURTS

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. Louis R. Lee, U.S. District Court for the Eastern District of Michigan, Southern District-Detroit, Docket No. 80-71556, May 8, 1980.

FEC seeks declaratory and injunctive relief against Louis R. Lee for violating the terms of a conciliation agreement he had entered into with the Commission. Mr. Lee violated the agreement by failing to pay a \$10,000 civil penalty required by the agreement.

COMPLIANCE

SUMMARY OF MUR'S

Selected compliance cases, which have been closed and put on the public record, are summarized in the *Record*. Compliance matters stem from possible violations of the Federal Election Campaign Act of 1971, as amended, which come to the Commission's attention either through formal complaints originating outside the Commission or by the FEC's own monitoring procedures. The Act gives the FEC the exclusive jurisdiction for the civil enforcement of the Act. Potential violations are assigned case numbers by the Office of General Counsel and become "Matters Under Review" (MUR's). All MUR investigations are kept confidential by the Commission, as required by the Act.

MUR's may be closed at any one of several points during the enforcement process, including when the Commission:

- Determines that no violation of the Act has occurred;
- Determines that there is no reason to believe or no probable cause to believe a violation of the Act has occurred;
- Enters into a conciliation agreement with the respondent;
- Finds probable cause to believe a violation has occurred and decides to sue; or
- Decides at any point during the enforcement process to take no further action.

After the MUR is closed and released by the Office of General Counsel, the Commission makes the MUR file available to the public. This file contains the complaint, the findings of the General Counsel's Office and the Commission's actions with regard to the case, including the full text of any conciliation agreement. The Commission's

actions are not necessarily based on, or in agreement with, the General Counsel's analysis.

Selection of MUR's for summary is made only from MUR's closed after January 1, 1979. The *Record* article does not summarize every stage in the compliance process. Rather, the summary provides only enough background to make clear the Commission's final determination. The full text of these MUR's and others which were closed between 1976 and the present are available for review and purchase in the Commission's Public Records Office.

MUR 454: Extension of Credit

On March 1, 1979, the Commission determined that there was no reason to believe a corporation's extension of credit to a political committee had violated the Act or Commission Regulations.

Complaint: The Reports Analysis Division referred this matter to the General Counsel after a routine analysis indicated that a committee might have settled a debt with a fundraiser in a manner that violated 11 CFR 114.10(a). In its 30-day post-general election report, the committee had an outstanding debt of approximately \$41,000 to its fundraiser and the fundraiser's direct mail subcontractors. The committee noted that the firms to which it still owed money had agreed to do subsequent solicitation mailings until the committee had raised enough money to liquidate its debts to them. When the committee filed its next quarterly report, all debts had been paid in full.

General Counsel Reports: The committee's contract with its fundraiser provided that the fundraiser would furnish consulting and computer services and conduct direct mail campaigns for the client committee. Between July and September, 1977, the fundraiser provided the committee with services totaling \$73,094. During that period, the committee paid the fundraiser \$32,067. After the fundraiser had completed its work for the committee, the committee disputed the amount it owed to the fundraiser. To retire the committee's debt (approximately \$41,000), the fundraiser accepted the responsibility for raising sufficient funds to satisfy the committee's debt to the fundraiser and its subcontractors.

The General Counsel pointed out that, since the committee subsequently paid all its debts in full, there did not appear to have been a "debt settlement," as defined by 11 CFR 114.10(b). However, since the fundraiser and its subcontractors had extended \$41,000 in credit to the committee, possibly there had been an extension of credit beyond the ordinary course of the corporation's business, in violation of 11 CFR 114.10(a).

Further investigation revealed that, upon discovery of the committee's unwillingness or inability to pay its debts, the fundraiser had secured partial payment and promissory notes for the committee's remaining obligations. Therefore, the General Counsel concluded that, in an attempt to secure payment, the fundraiser had extended credit to the client committee.

The General Counsel distinguished this situation from other forms of corporate credit because the committee's creditor was also the committee's fundraiser. Given that situation,

the General Counsel maintained that it would be unreasonable for the creditor to take his client to court since the client would ultimately be dependent upon the creditor's services as a fundraiser to satisfy the debt. Therefore, although the contract was unusual, its execution by the creditor seemed commercially reasonable. The contract was entered into in July 1977, and the services were performed during August of the same year. In that period, the fundraiser collected nearly one-half of the total amount due, and all debts were fully paid by March 31, 1978. Since the credit terms were commercially reasonable in this situation, the General Counsel recommended that the Commission find no reason to believe a violation of the Act had occurred.

Commission Determination: On March 1, 1979, the Commission determined that there was no reason to believe a violation of the Act had occurred.

MUR 737: Candidate's Personal Funds

On March 14, 1979, the Commission entered into a conciliation agreement with an individual who had made an excessive contribution, in violation of 2 U.S.C. §441a(a)(1)(A). On April 2, 1979, the Commission entered into a conciliation agreement with the committee which had knowingly accepted the excessive contribution, in violation of 2 U.S.C. §441a(f).

Complaint: During the course of a routine report analysis, it was discovered that an individual had contributed \$20,500 to a Federal candidate's campaign committee. The contribution was made in the form of three separate loans, and each was designated for the primary election. The committee's post-primary report explained that the excessive \$19,500 had been refunded. In response to an inquiry from the Commission, the candidate identified herself as the source of funds for the contribution refund. On October 23, 1978, the Commission found reason to believe that the individual had violated §441a(a)(1)(A) by making the excessive contribution and that the committee had violated §441a(f) by knowingly accepting the excessive contribution.

General Counsel Reports: During the course of the ensuing investigation, the lender stated that the loans were made to the candidate, who is his daughter, rather than to the committee. He described the funds as personal loans rather than campaign contributions and stated that the funds were initially deposited in the candidate's personal account. (The individual did not submit any evidence of the intermediate transaction between himself and the candidate.) However, regardless of how the father attempted to characterize the loans, the General Counsel pointed out that the funds in question would not meet the "personal funds" definition in Commission Regulations (11 CFR 110.10(b)) because:

- The first loan from the individual was used, according to the committee treasurer, to open the committee's account;
- The balance of the loan was made after the individual's daughter became a candidate; and
- The committee reports identify the individual rather than the candidate as the source of the loans to the committee.

The General Counsel concluded that the funds must, therefore, be considered contributions from the father, in violation of §441a(a)(1)(A). Furthermore, although the candidate notified the Commission that she was the source of the loan repayment, that information did not satisfy the Act's reporting requirement that a committee disclose the "circumstances and conditions under which" loans are extinguished. Therefore, the General Counsel recommended that the Commission find reason to believe that the committee had also violated 2 U.S.C. §434(b)(8) as amended in 1979.

Commission Determination: On January 31, 1979, the Commission found reason to believe that the committee had violated §434(b)(8), reasonable cause to believe that it had violated §441a(f) and reasonable cause to believe that the individual had violated §441a(a)(1)(A). On March 14, 1979, the Commission entered into a conciliation agreement with the individual. The committee amended its reports to reflect the details of the loan repayment, as required by §434(b)(8), prior to entering into a conciliation agreement with the Commission on April 2, 1979. Civil penalties were levied on both the individual contributor and the committee.

FEC PUBLISHES NAME OF NONFILER

On June 5, 1980, the Federal Election Commission published the name of a Presidential candidate's principal campaign committee, which had failed to file a monthly report by April 20, 1980. Under the 1979 Amendments to the election law, the campaigns of Presidential candidates which raised or spent more than \$100,000 by January 1, 1980, must file monthly financial disclosure reports during the election year. Each report is due on the 20th of the month, covering the previous month's financial activity.

New Commission procedures call for each Presidential campaign committee over the \$100,000 level to be notified by mailgram five business days after the due date of the report if the report has not been received. Failure to respond to the notice within four additional business days results in publication of the committee's name.

COMMISSIONERS

COMMISSIONER TIERNAN ACCEPTS ABA APPOINTMENT

Commissioner Robert O. Tiernan has accepted an appointment as a member of the American Bar Association's (ABA's) Advisory Commission to the Special Committee on Election Law and Voter Participation. The appointment, which was made by ABA President-elect William Reece Smith, Jr., of Chicago, will be for a one-year term starting in August. An original member of the Commission appointed in 1975, Commissioner Tiernan was reappointed in May 1976 by President Ford and served as Chairman in 1979-80. His term expires on April 30, 1981.

800 LINE

The Office of Public Communications receives numerous inquiries from the public on its toll-free line: 800/424-9530. The following explanation responds to a frequently asked question.

Name of Separate Segregated Fund

Question: May a separate segregated fund (a political action committee or PAC) continue to use the acronym by which it is widely known — even if the acronym excludes the name of the fund's connected organization?

Answer: The name of a separate segregated fund must include the full name of its connected organization. 11 CFR 102.14. On checks and letterhead, however, the fund may use an abbreviation or acronym, as long as the abbreviated title makes clear who actually sponsors the separate segregated fund. Both the full name and the abbreviation or acronym must be included on the fund's Statement of Organization (Form 1), on all reports filed by the fund, and in all notices that appear on advertisements or solicitations. If the current Statement of Organization does not reflect these names, then the separate segregated fund must amend the Statement accordingly.

Example: While United Telecom Political Action Committee, the separate segregated fund of United Telecommunications, Inc., must change its official name to "United Telecommunications, Inc., Political Action Committee," the fund may continue to use its abbreviated title, "United Telecom Political Action Committee," on committee letterhead and checks since this title clearly identifies the fund's connected organization. (See AO 1980-10, May 1980 *Record*; see also AO 1980-23, June 1980 *Record*.)

CLEARINGHOUSE

CLEARINGHOUSE RELEASES BILINGUAL STUDY

During May 1980, the Clearinghouse released Volume II of *The Bilingual Elections Services Study*, a multiyear study of bilingual election practices. The *Study*, conducted by the University of New Mexico under contract with the FEC's Clearinghouse, analyzes the problems encountered in providing bilingual voter services in more than 300 local jurisdictions in some 30 different States. The purpose of the *Study* is to provide State and local election officials with a handbook of ideas and suggestions for improving bilingual registration and election services. The three-volume study includes:

- *Volume I: A Handbook of Ideas for Local Election Officials* suggests techniques for identifying language minority populations and defines the types of election services most appropriate to their needs; and reviews different ideas and approaches for designing bilingual registration programs and for providing bilingual services at polling places. (This volume was released in September 1979.)
- *Volume II: A Glossary of Common Spanish Election Terminology.*
- *Volume III: The State of the Art* summarizes a two-year analysis of how election officials throughout the country have identified their language minority populations and defined their needs, as well as how bilingual registration and balloting services have been provided to date. (This volume was released in September 1979.)

Volume II of *The Bilingual Elections Services Study* is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20404. Identify report title and GPO stock number (052-006-00007-4). Enclose a check or money order for report price (\$3.50) payable to Superintendent of Documents.

Volumes I and III of *The Bilingual Elections Services Study* are available from the National Technical Information Service, U.S. Dept. of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Identify report numbers (Vol. I, No. PB300432AS, \$7.00; Vol. III, No. PB300433AS, \$11.00) and enclose a check or money order payable to National Technical Information Service.

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.

PUBLICATIONS

ANNUAL REPORT

On June 1, 1980, the Commission submitted its *Annual Report 1979* to the President and the Congress. The *Report* details the Commission's efforts to facilitate smooth administration of public financing in the 1980 Presidential elections while improving overall administration of the election law. The *Report* describes, for example, procedures developed to expand the scope of information available on Presidential campaign finance activity; ensure swift certification of public funds; and undertake timely, thorough audits of candidates and national nominating conventions receiving public funds. It highlights revised regulations governing the public funding of Presidential primary campaigns and national nominating conventions, as well as advisory opinions issued on Presidential election activity.

A separate chapter of the *Report* highlights major changes in the law resulting from passage of the 1979 Amendments

to the Act. (A similar summary was published as a Supplement to the *Record* in March 1980.)

During 1979, the Commission's internal administration changed as a result of a collective bargaining agreement negotiated between FEC management and representatives of the National Treasury Employees Union. The *Report* discusses this labor/management issue as well as other aspects of the FEC's internal administration.

Finally, the *Report* contains the Commission's legislative recommendations. Several appendices contain supplemental information on the Commission and its activities. An appendix on advisory opinions, for example, summarizes all Commission advisory opinions issued in 1979.

The FEC's *Annual Report 1979* is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; telephone: 202-275-2091. The order number is 052-006-00006-6. Purchase price, payable in advance to the Superintendent of Documents, is \$4.25.

CHANGE OF ADDRESS

Political Committees

Registered political committees are automatically sent the *Record*. Any change of address by a registered committee must, by law, be made in writing as an amendment to FEC Form 1 (Statement of Organization) and filed with the Clerk of the House, the Secretary of the Senate or the FEC, as appropriate.

Other Subscribers

Record subscribers (who are not political committees), when calling or mailing in a change of address, are asked to provide the following information:

1. Name of person to whom the *Record* is sent.
2. Old address.
3. New address.
4. Subscription number. The subscription number is located in the upper left hand corner of the mailing label. It consists of three letters and five numbers. Without this number, there is no guarantee that your subscription can be located on the computer.

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