



# THE FEDERAL ELECTION COMMISSION

# RECORD

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

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## COMMISSIONERS

### **PRESIDENT REAGAN NAMES THREE APPOINTEES TO COMMISSION**

On December 17, 1981, President Reagan made three recess appointments to the Commission. The Senate Rules Committee has not yet scheduled confirmation hearings.

Two of the appointments went to Lee Ann Elliott, a Republican, and Danny Lee McDonald, a Democrat, each of whom was nominated to serve a six-year term. Commissioner Joan D. Aikens, whose previous term expired in 1981, was reappointed to serve the remaining two years of former Commissioner Max Friedersdorf's term. (Mr. Friedersdorf, who resigned in December 1980, was succeeded by former Commissioner Vernon W. Thomson. Named in a recess appointment by President Carter, Mr. Thomson held Mr. Friedersdorf's seat for one year.)

### **New Commissioners**

Prior to her appointment to the Commission, Mrs. Elliott served as Vice President of Bishop, Bryant & Associates, Inc., of Washington, D.C. From 1970 to 1979, Commissioner Elliott was Associate Executive Director of the American Medical Political Action Committee, having served as Assistant Director from 1961 to 1970. Mrs. Elliott also served on the Board of Directors of the American Association of Political Consultants and of the Chicago Area Public Affairs Group, of which she is a past president. She was a member of the Public Affairs Committee of the Chamber of Commerce of the United States. In 1979, she received the

Award for Excellence in Serving Corporate Public Affairs from the National Association of Manufacturers. Mrs. Elliott's term is scheduled to expire on April 30, 1987.

Prior to his appointment to the Commission, Mr. McDonald served as General Administrator of the Oklahoma Corporation Commission since 1979. In this position, he was responsible for the management of 10 regulatory divisions. He was Secretary of the Tulsa County Election Board from 1974 to 1979, and served as Chief Clerk of the Board in 1973. He has also served as a member of the Advisory Panel to the FEC's National Clearinghouse on Election Administration. Mr. McDonald's term as FEC Commissioner is scheduled to expire on April 30, 1987.

### **NEW OFFICERS ELECTED**

On January 7, 1982, the Federal Election Commission unanimously elected Frank P. Reiche as Chairman and Danny Lee McDonald as Vice Chairman to serve one-year terms. Mr. Reiche succeeded Commissioner John Warren McGarry in the Chairmanship. Mr. McDonald succeeded Mr. Reiche as Vice Chairman.

Under current procedures, the Commission elects its officers at the last public meeting in December, and the terms of office coincide with the calendar year. The election of new officers for 1982, scheduled for December 17, 1981, was delayed, however, due to the appointment of three new members to the Commission that same day (see above).

Chairman Reiche, a member of the Commission since July 31, 1979, served as Vice Chairman during 1981. Prior to his appointment  
continued

ment to the Commission, Mr. Reiche was a practicing attorney and partner in the Princeton, N.J., law firm of Smith, Stratton, Wise and Heher. He served as a member of New Jersey Governor William T. Cahill's Tax Policy Committee from 1970 to 1972. Governor Cahill appointed Mr. Reiche Chairman of the first New Jersey Election Law Enforcement Commission in 1973; he was reappointed as Chairman by Governor Brendan Byrne in 1975. During 1977-78, he also served as Chairman of the Steering Committee of Interstate Agencies, which led to the organization of the Council on Governmental Ethics Laws. Mr. Reiche's term as a member of the Commission will expire on April 30, 1985.

Vice Chairman McDonald's prior experience is detailed above.



#### ADVISORY OPINION REQUESTS

The following chart lists recent AORs. 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
1981-56	PAC established by partnership of three corporations; solicitation of partnership's personnel by trade association.	12/15/81	9
1981-57	Earmarking contributions to candidates and committees through PAC.	12/17/81	3
1981-58	State campaign funds used for litigation involving Congressional reapportionment.	12/22/81	1
1981-59	Procedures for transferring proceeds raised through joint fundraising by state/federal PACs of trade association.	12/29/81	6

AOR	Subject	Date Made Public	No. of Pages
1981-60	PAC and candidate's solicitation letters forwarded by citizen recipient to other individuals.	12/29/81	2
1981-61	Payment by bank holding company of chairman's contribution to state party committee.	12/30/81	13
1982-1	Funds transferred from terminated 1982 Congressional campaign to newly registered 1982 Senate campaign.	1/7/82	4

#### ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. 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 1981-50: Plan to Facilitate Member Participation in Partnership Contributions

A plan proposed by the law partnership of Hansell, Post, Brandon & Dorsey (the partnership) to facilitate members' participation in contributions by the partnership to federal candidates would not cause the partnership to become a political committee under the Act.

Under the plan, several members of the partnership would provide an information clearinghouse to distribute solicitation letters received in connection with campaigns for fed-

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eral office and a bookkeeping service to facilitate members' participation in partnership contributions. The group would recommend a guideline for total annual contributions from the members. The partnership would keep records of members who wished to participate in partnership contributions, including the amount he/she wished to designate to a particular candidate. When the partnership made a contribution to a campaign committee, it would send a partnership check with a cover letter itemizing each member's share of the contribution. The account of each member participating in that contribution would then be charged for his/her share of the contribution.

Under the Act and Commission Regulations, partnerships do not become political committees by virtue of contributing to federal candidates. Partnerships may make contributions, as long as: 1) they do not exceed the per election monetary limits for contributions from persons and 2) they attribute their contributions to both the partnership and the individual partners. 11 CFR 110.1(e).

Under the proposed plan, the partnership would meet these requirements. Additionally, there would be no separate fund established to collect contributions from members for transmittal to federal candidates. The plan would not require members to designate contributions of a specific amount to any particular candidate or class of candidates on an annual basis. The incidental expenditures for implementing the plan—less than \$1,000—would be considered part of the partnership's effort to obtain the consent of members who wished to share in a partnership contribution. Commissioner Frank P. Reiche filed a concurring opinion. (Date issued: December 14, 1981; Length: 7 pages, including concurring opinion)

#### **ADVISORY OPINION UPDATE AVAILABLE**

A supplement updating the Commission's cumulative Index to Advisory Opinions is now available. The December 1981 Interim Sheet includes all opinions issued from August through December 31, 1981. Purchase price for the December 1981 Interim Sheet is \$.90. The cumulative Index to Advisory Opinions, providing a subject index and indexes by the U.S. Code and the Code of Federal Regula-

tions for all opinions issued between April 1975 and December 1981, is also available for \$6.00. Orders, accompanied by checks made payable to the United States Treasurer, should be sent to the FEC's Office of Public Records.



#### **ELECTION YEAR REPORTING SCHEDULE**

The following paragraphs explain the reporting schedule for the various categories of filers during the 1982 election year.

- 1. Authorized Candidate Committees Active in 1982 Elections**  
Authorized candidate committees active in 1982 elections are required to file pre-primary and pre-general election reports, a post-general election report and quarterly reports during 1982. (For filing dates of reports, see pages 4 and 5 below.)
- 2. Authorized Candidate Committees Not Active in 1982 Elections**  
Authorized candidate committees that will not be active in 1982 elections (i.e., committees authorized by candidates seeking election in a year other than 1982 or committees active in previous elections with outstanding campaign debts) must continue to report semiannually. (For filing dates of reports, see page 4 below.)
- 3. Authorized Presidential Filers**  
Authorized Presidential committees may continue to report on a monthly or quarterly basis during 1982. (For filing dates of reports, see page 4 below.)

**Note:** The FEC's Reports Analysis Division requests that Presidential committees that change their reporting schedule during 1982 notify the Commission of their intention in writing.

- 4. Unauthorized Committees**  
All unauthorized committees (i.e., committees not authorized by candidates) are required to file on either a quarterly or monthly basis in 1982. (The reporting continued

schedules for quarterly and monthly filers are detailed below.)

Those committees that choose to file **quarterly** must also file a post-general election report. Quarterly filers supporting candidates in 1982 elections also file pre-primary and pre-general election reports if this financial activity has not been previously disclosed. (For filing dates of reports, see below.)

**Note:** Unauthorized committees that wish to change their reporting schedule during 1982 must notify the Commission of their intention by a letter submitted with the next report due at the time they decide to change their filing frequency. A committee may **not** change its filing frequency more than once during 1982. 11 CFR 104.5(c).

During 1982, reporting forms and additional information will be sent to all registered committees. Questions and 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 call 202/523-4068 or toll free 800/424-9530.

#### DUE DATES FOR 1982 REPORTS

The charts below list filing dates for reports required during the 1982 election year. Reporting schedules are provided for pre- and post-election reports, as well as monthly, quarterly and semiannual reports.

MONTHLY REPORTS		
Month	Period Covered	Filing Date
February	1/1 - 1/31	February 20
March	2/1 - 2/28	March 20
April	3/1 - 3/31	April 20
May	4/1 - 4/30	May 20
June	5/1 - 5/31	June 20
July	6/1 - 6/30	July 20
August	7/1 - 7/31	August 20
September	8/1 - 8/31	September 20
October	9/1 - 9/30	October 20
Pre-Election	10/1 - 10/20	October 23
Post-Election	10/21 - 11/24	December 4
Year-End	11/25 - 12/31	January 31, 1983

QUARTERLY REPORTS*		
Quarter	Close of Books	Filing Date (and mailing date if sent by registered or certified mail)
First	March 31	April 15
Second	June 30	July 15
Third	September 30	October 15
Fourth (Year-End)	December 31	January 31, 1983

\*Quarterly Waiver: If a pre-election report is due within the period beginning on the 5th day and ending on the 15th day after the close of a calendar quarter, the quarterly report is waived.

GENERAL ELECTION	
Date of Election:	November 2
<b>Pre-Election Report</b>	
Closing date of books:	October 13
Mailing date:	October 18
Filing date:	October 21
<b>Post-Election Report</b>	
Closing date of books:	November 22
Mailing date:	December 2
Filing Date:	December 2

SEMIANNUAL REPORTS		
Report	Period Covered	Filing Date
First	1/1 - 6/30	July 31
Second	7/1 - 12/31	January 31, 1983

FILING DATES — 1982 REPORTS

PRIMARY ELECTION REPORTS CONGRESSIONAL		12-Day Pre-Election Report		
State or Territory	Date of Election	Closing Date of Books	Mailing Date (if sent by registered or certified mail)	Filing Date
Alabama	September 7	August 18	August 23	August 26
Alabama runoff	September 28	September 8	September 13	September 16
Alaska	August 24	August 4	August 9	August 12
*Arizona	September 7	August 18	August 23	August 26
**American Samoa	November 2	October 13	October 18	October 21
American Samoa runoff	November 16	October 27	November 1	November 4
Arkansas	May 25	May 5	May 10	May 13
Arkansas runoff	June 8	May 19	May 24	May 27
*California	June 8	May 19	May 24	May 27
Colorado	September 14	August 25	August 30	September 2
*Connecticut	September 7	August 18	August 23	August 26
*Delaware	September 11	August 22	August 27	August 30
**District of Columbia	September 14	August 25	August 30	September 2
*Florida	September 7	August 18	August 23	August 26
Florida runoff	October 5	September 15	September 20	September 23
Georgia	August 10	July 21	July 26	July 29
Georgia runoff	August 31	August 11	August 16	August 19
**Guam	September 4	August 15	August 20	August 23
*Hawaii	September 18	August 29	September 3	September 6
Idaho	May 25	May 5	May 10	May 13
Illinois	March 16	February 24	March 1	March 4
*Indiana	May 4	April 14	April 19	April 22
Iowa	June 8	May 19	May 24	May 27
Kansas	August 3	July 14	July 19	July 22
Kentucky	May 25	May 5	May 10	May 13
Louisiana	September 11	August 22	August 27	August 30
*Maine	June 8	May 19	May 24	May 27
*Maryland	September 14	August 25	August 30	September 2
*Massachusetts	September 14	August 25	August 30	September 2
*Michigan	August 8/10	July 14/21	July 18/26	July 22/29
*Minnesota	September 14	August 25	August 30	September 2

Note: Primary election dates are subject to change.

\*States holding Senate elections.

\*\*The District of Columbia and the U.S. Territories of American Samoa, Guam and the Virgin Islands will each hold an election for Delegate to the U.S. House of Representatives.

PRIMARY ELECTION REPORTS  
CONGRESSIONAL

12-Day Pre-Election Report

State or Territory	Date of Election	Closing Date of Books	Mailing Date (if sent by registered or certified mail)	Filing Date
*Mississippi Mississippi runoff	<del>June 1</del> Aug. 17 <del>June 22</del> Aug. 31	<del>May 12</del> July 28 <del>June 2</del> Aug. 11	<del>May 17</del> Aug. 2 <del>June 7</del> Aug. 16	<del>May 20</del> Aug. 5 <del>June 10</del> Aug. 19
*Missouri	August 3	July 14	July 19	July 22
*Montana	June 8	May 19	May 24	May 27
*Nebraska	May 11	April 21	April 26	April 29
*Nevada	September 14	August 25	August 30	September 2
New Hampshire	September 14	August 25	August 30	September 2
*New Jersey	June 8	May 19	May 24	May 27
*New Mexico	June 1	May 12	May 17	May 20
*New York	September 14 23	August 25 Sept. 3	August 30 Sept. 8	September 2-11
North Carolina North Carolina runoff	May 4 June 1	April 14 May 12	April 19 May 17	April 22 May 20
*North Dakota	June 8	May 19	May 24	May 27
*Ohio	June 8	May 19	May 24	May 27
Oklahoma Oklahoma runoff	August 24 September 21	August 4 September 1	August 9 September 6	August 12 September 9
Oregon	May 18	April 28	May 3	May 6
*Pennsylvania	May 18	April 28	May 3	May 6
Puerto Rico	No Election for Resident Commissioner to the U.S. House of Representatives in 1982			
*Rhode Island	September 14	August 25	August 30	September 2
South Carolina South Carolina runoff	June 8 June 22	May 19 June 2	May 24 June 7	May 27 June 10
South Dakota	June 1	May 12	May 17	May 20
*Tennessee	August 5	July 16	July 21	July 24
*Texas Texas runoff	May 1 June 5	April 11 May 16	April 16 May 21	April 19 May 24
*Utah	September 14	August 25	August 30	September 2
*Vermont	September 14	August 25	August 30	September 2
**Virgin Islands	September 14	August 25	August 30	September 2
*Virginia	June 8	May 19	May 24	May 27
*Washington	September 14	August 25	August 30	September 2
*West Virginia	June 1	May 12	May 17	May 20
*Wisconsin	September 14	August 25	August 30	September 2
*Wyoming	September 14	August 25	August 30	September 2

## THE LAW IN THE COURTS

### REAGAN BUSH COMMITTEE v. FEC

On December 10, 1981, the U.S. Court of Appeals for the District of Columbia Circuit denied an injunction barring the FEC from releasing an interim audit report of the Reagan Bush Committee's (the Committee's) publicly funded general election campaign. The Committee had sought the injunction pending its appeal of an earlier decision by the district court, which had also denied its motion for an injunction (Reagan Bush Committee v. FEC; Civil Action No. C.A. 81-1893). The appeals court found no merit in the Committee's argument that release of the interim audit report would cause the Committee "irreparable harm," especially "in the absence of clear Congressional intent that interim audit reports are not to be made public." Moreover, the court held that appellant's motion was "particularly inappropriate in the light of the well established policy that courts should not interfere in an interim agency action when Congress has enacted special statutory procedures for review of the final result."

#### Plaintiff's Claims

In filing its suit with the district court on August 10, 1981, the Committee had asked the court to issue an order:

- Preliminarily enjoining the FEC from releasing an interim audit report dealing with the Reagan Bush campaign; and
- Requiring disclosure of certain materials under the Freedom of Information Act (FOIA).

Plaintiff had also asked the court to enjoin the FEC from taking any further action with respect to the Committee's "alleged violations" of the Act or repayments of public funds recommended by the FEC, until the Commission:

- Made available all the documents requested by the Committee under the FOIA;
- Provided the Committee with a further opportunity to respond to the alleged violations and recommended repayments; and
- Conducted a hearing on these disputed matters.

#### District Court's Ruling

In granting the FEC's motion for summary judgment in the suit, the district court ruled that the interim audit report was not a **final** FEC determination on repayments and that the "FEC audit process leading to repayment determinations is replete with procedural protections" that would allow the Committee to dispute any FEC audit findings **before** the Commission made a final repayment determination. Moreover, the court pointed out that repayment determinations and the procedure for enforcing violations of the election law are treated as two different functions under the statutory scheme and by the FEC in practice. The court concluded, therefore, that the Committee's "fears of disclosure of information relating to alleged violations are groundless...."

Plaintiff further claimed that public disclosure of the interim audit report was barred by 2 U.S.C. §437g(a)(12). The court found, however, that this provision applied only to **enforcement** proceedings initiated under the Act (i.e., investigations into alleged violations of the Act); separate provisions spelled out procedures for conducting audits and making repayment determinations with regard to publicly funded Presidential candidates. (See 26 U.S.C. §9007(a) and (b).)

Refuting plaintiff's claim that the Presidential audit information could be disclosed **only** to Congress, the district court affirmed the FEC's argument that such reports must be made public by law. 26 U.S.C. §§9007 and 9009(a). "The public has a right to know, and promptly, how its monies are spent by Presidential campaign committees." Moreover, the court affirmed the FEC's position that the audit report was subject to disclosure under the FOIA.

The district court also dismissed without prejudice plaintiff's petition for a court order requiring the FEC to disclose certain information the Committee had requested under the FOIA. The court found that the Committee had "never specified to the court which documents should be disclosed" and had "not challenged the FEC's assertion" that the FEC had substantially complied with the Committee's requests for information available under the FOIA.

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The Commission released the final audit report for the Reagan Bush campaign on December 11, 1981.

### **KENNEDY FOR PRESIDENT COMMITTEE v. FEC**

On December 21, 1981, the U.S. District Court for the District of Columbia issued a consent order resolving claims brought by the Kennedy campaign against the Commission in Kennedy for President Committee v. FEC (Civil Action No. 81-2552). The court dismissed with prejudice all other pending judicial claims between the Kennedy Committee and the Federal Election Commission.

#### **Plaintiff's Claims**

In the suit, filed on October 21, 1981, the Kennedy Committee claimed that the FEC had violated the Government in the Sunshine Act (5 U.S.C. §552b) by:

- Considering the final audit report on Senator Edward Kennedy's Presidential primary campaign in executive sessions, which are closed to the public; and
- Failing to indicate in public notices announcing these executive sessions that the FEC would consider the Kennedy audit report. The Kennedy Committee had asked the district court to order the FEC to make available to the Kennedy campaign and the public a tape recording or written transcript (as well as any other documents) pertaining to the FEC's discussion of the audit report.

#### **Resolution of Claims**

In the consent order, the FEC agreed to make available to plaintiff and the public portions of the transcript involving the FEC's consideration of the final Kennedy audit report at Commission meetings held on August 25 and 26 and September 15 and 16, 1981. The Commission also agreed to make available documents pertaining to those meetings. Both parties agreed, however, that the Commission could delete from these transcripts discussions related solely to FEC personnel matters, enforcement actions, litigation strategy and matters exempted from public disclosure by the Freedom of Information Act (FOIA). Similarly, the parties agreed that portions of the documents pertaining to those meetings could be withheld pursuant to various exemptions under the Freedom of Information Act.

The consent order expressly conditioned release of the transcripts on the parties' compliance with the following requirements:

- Within 15 days of the order, the FEC would make available an index of deletions in the transcripts and documents to be released. The Kennedy Committee could then object to any deletions in the transcript within 10 days of the index's release. Disputed deletions could not, however, delay release of the transcripts or documents.
- Fifteen days after the Committee received the index, the FEC would make available copies of those portions of the transcripts and documents which the FEC determined were not exempt from disclosure.
- Within 20 days of receiving the transcripts and documents, the Kennedy Committee would present to the Commission any objections to deletions in writing.

The FEC, in turn, would notify the Committee of its final determination on any disputed deletions within 20 days.

- The Kennedy Committee could ask the court to review any deletions still in dispute within 15 days of receiving the FEC's final determination on them. In reviewing such claims, the court would limit its consideration to whether the FEC had improperly withheld material from the transcripts.

### **NCPAC/STAHLMAN v. FEC**

On December 8, 1981, the U. S. Court of Appeals for the District of Columbia Circuit issued a memorandum in National Conservative Political Action Committee (NCPAC) and Rhonda K. Stahlman v. FEC (Civil Action No. 80-1949), which dismissed plaintiffs' constitutional challenges to contribution limits. The appeals court's ruling affirmed an earlier decision by the district court in the suit.

#### **Plaintiffs' Constitutional Claims**

In their suit, originally filed with the district court in December 1979, plaintiffs NCPAC and Stahlman had challenged the constitutionality of those provisions of the election law that prescribe limits on contributions from individuals, groups and political committees to other individuals, groups and

continued



political committees that make independent expenditures. Plaintiffs had claimed that these provisions define the term "contribution" in overly broad and vague terms. They had asked the district court to certify their constitutional claims to the appeals court, pursuant to 2 U.S.C. §437h.

Rejecting plaintiffs' constitutional claims, the district court had pointed out that, in its Buckley v. Valeo decision, the Supreme Court had upheld the constitutionality of the contribution limits. Buckley v. Valeo, 424 U.S. 1 at 38 (1976). (For a detailed summary of the district court's opinion, see page 7 of the September 1980 Record.)

In appealing the district court's decision, plaintiffs reasserted their constitutional challenges. They also asked the appeals court to find "erroneous" the district court's refusal to certify their challenges to the appeals court.

#### **Appeals Court Ruling**

Citing as precedent the Supreme Court's June 1981 decision in California Medical Assoc. (CMA) v. FEC,\* the appeals court rejected plaintiffs' constitutional challenges and affirmed the district court's disposition of the case.

The appeals court rejected plaintiffs' assertion that NCPAC was not subject to the CMA decision because it not only made contributions but made independent expenditures as well. The court said the CMA decision did apply because NCPAC's activity was not limited to independent expenditures. Moreover, the court held that limits on NCPAC contributors did not impermissibly infringe on their free speech rights because the contributions constituted "speech by proxy" since contributors had no voice in NCPAC's decisions concerning independent expenditures. 101 S.Ct. at 2721-22.

The appeals court also followed precedent set by the CMA decision in rejecting plaintiffs' assertion that unlimited contributions earmarked for NCPAC's independent expenditures would not "...risk corrupting or appearing to corrupt the political process in the

\* For a summary of the Supreme Court's decision in California Medical Assoc. v. FEC, see page 1 of the August 1981 Record.

manner Congress sought to prohibit." 101 S.Ct. at 2723 n. 19; 494 F. Supp. at 137.

#### **RICHARD B. KAY v. FEC**

On December 1, 1981, the U.S. Court of Appeals for the District of Columbia Circuit issued a judgment in Richard B. Kay v. FEC (Civil Action No. 80-3081), which upheld the district court's decision that the FEC's dismissal of a complaint filed by plaintiff had not been contrary to law.

Mr. Kay, who had been a Presidential primary candidate in Ohio, had alleged in his complaint that a full-page chart published in the Cleveland Plain Dealer before the 1980 Ohio Presidential primary was a political advertisement by the publishing company, constituting either a corporate expenditure or a corporate in-kind contribution — both prohibited under the Act. The district court upheld the General Counsel's recommendation that the chart be treated as a news story, exempted from the definitions of contribution and expenditure. 2 U.S.C. §431 (9)(B)(i). (For a detailed summary of the suit, see page 6 of the June 1981 Record.)

#### **READER'S DIGEST ASSOC., INC. v. FEC**

On October 30, 1981, the U. S. District Court for the Southern District of New York issued a stipulation and order dismissing Reader's Digest Assoc., Inc. (RDA) v. FEC (Civil Action No. 81 Civ. 596 (PNL)). The court's action followed the Commission's decision to dismiss a complaint filed against plaintiff in August 1980, which had alleged that RDA had violated 2 U.S.C. §441b(a) by distributing a video tape to major media outlets that provided a computer reenactment of Senator Edward Kennedy's automobile accident at Chappaquiddick. The complaint had alleged that the distribution constituted an "illegal corporate expenditure to negatively influence" the 1980 Presidential elections.

RDA's suit had sought a court injunction barring an FEC investigation of the complaint. RDA had asserted that, as a publishing corporation, it was automatically exempt from FEC scrutiny. In an earlier opinion, issued in March 1981, the district court had

continued

ruled, however, that the Commission could conduct a limited inquiry into the factual question of whether dissemination of the tapes was within the normal course of RDA's publishing function and therefore covered by the news story exemption. 2 U.S.C. §431(9)(B)(i). In the ensuing investigation, the Commission did not uncover any evidence to suggest that the distribution was outside the scope of RDA's functions as a publisher. In August 1981, therefore, the Commission found no probable cause to believe RDA had violated 2 U.S.C. §441b. (For a detailed summary of the suit, see the May 1981 Record.)



The item below identifies an FEC document that appeared in the Federal Register on January 27, 1982. Copies of this notice are **not** available from the FEC.

Notice	Title	Date	Citation
1982-1	11 CFR Part 110; Communications: Advertising (Notice of proposed rule-making)	1/27/82	47 <u>Fed. Reg.</u> 3796

## NEW LITIGATION

### **Kennedy for President Committee v. FEC**

Pursuant to 26 U.S.C. §9041(a), plaintiff has petitioned the U.S. Court of Appeals for the District of Columbia Circuit to review an FEC determination to deny certification of a primary matching fund payment to plaintiff. Plaintiff claims the payment was "wrongfully withheld" and seeks a court order directing the Commission to certify the payment.

(U.S. Court of Appeals for the District of Columbia Circuit, Docket No. 81-2403, December 31, 1981.)

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