



THE FEDERAL ELECTION COMMISSION

RECORD

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

Volume 8, Number 9

September 1982

NEW YORK PRIMARY RESCHEDULED

New York will hold its primary election on September 23 instead of September 14. The new schedule for filing the 12-day pre-election report by committees supporting candidates for federal office in the primary is as follows:

Closing Date of Books	Mailing Date of Report (if sent by registered or certified mail)	Filing Date
New York Primary		
9/3/82	9/8/82	9/11/82

Commissioner Aikens, who is from Swarthmore, Pennsylvania, has been a member of the Commission since it was created in 1975. Her current term is scheduled to expire on April 30, 1983. Commissioner Elliott, from Skokie, Illinois, and Commissioner McDonald, from Sand Springs, Oklahoma, were named to terms scheduled to expire on April 30, 1987.

INFORMATION

DEBT SETTLEMENT PROCEDURES REVISED

On July 22, 1982, the Commission approved revisions to its procedures for reviewing debt settlement statements submitted by political committees that have settled debts with creditors for less than the amount owed. The revised FEC Directive No. 3, effective July 22, 1982, supersedes previous FEC directives on debt settlement procedures. The directive defines a debt settlement statement, lists the supporting documentation a committee must submit with its statement and outlines FEC review procedures to ensure the statements are in compliance with the Act and Commission Regulations. (See 2 U.S.C. §434(b)(8) and Commission Regulations at 11 CFR 100.7(a)(4) and 114.10.) Highlights of the revised procedures are provided below. More detailed information may be obtained by requesting a copy of the revised Directive No. 3 from the FEC's Public Records Office. Call 202-523-4181 or toll free 800-424-9530.

Definition of Debt Settlement Statement

A debt settlement statement is a written agreement between a committee and creditor in which the creditor agrees to forgive a debt by allowing the committee to pay less than the amount it still owes on the debt. Debt settlement statements do **not** include:

-- An agreement reached by a creditor and a committee concerning the amount of a dis-

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COMMISSIONERS

FEC COMMISSIONERS SWORN IN

On August 3, 1982, three members of the Federal Election Commission were sworn into office as Senate-confirmed Commissioners after having served six months as recess appointees. In an afternoon ceremony at the Commission, Commissioners Joan D. Aikens, Lee Ann Elliott and Danny Lee McDonald were administered the oath of office by Associate Justice Sylvia Bacon of the Superior Court of the District of Columbia.

President Reagan had nominated Commissioners Aikens and Elliott, both Republicans, on November 24, 1981, and Commissioner McDonald, a Democrat, on December 14, 1981. On December 17, after Congress had adjourned before acting on the nominations, the President named the Commissioners to recess appointments. The Senate Rules Committee held confirmation hearings in June, and the nominations were confirmed by the full Senate in July.

- puted debt, provided the committee pays the agreed-upon amount; or
- An agreement to reduce a committee's debt when the amount originally reported as owed to the creditor is later reduced because this amount was an estimate that exceeded the actual cost of goods or services provided to the committee.

Under these two circumstances, the committee is not required to submit a statement, but reports any change in debt status on Schedule D as an amendment to its report.

Documentation for Debt Settlement Statement

In order to prevent the unpaid amount of a debt from becoming an impermissible contribution to a committee from its creditor (i.e., a prohibited contribution from a corporate creditor or an excessive contribution from a noncorporate creditor), the debt settlement statement must indicate that the creditor has made a commercially reasonable attempt to collect the debt. The committee must submit the following information as evidence of this effort:

- Evidence that the creditor is in agreement with the terms of the debt settlement. For example, the committee may submit a letter from the creditor indicating the creditor has agreed to accept partial, rather than full, payment for the loan.
- Steps taken by the candidate or the committee to pay off the debt. For example, the committee may provide evidence indicating the amount of the debt liquidated by the committee or any efforts made to negotiate payment with the creditor, including written correspondence with the creditor and records of phone calls made to the creditor.
- Steps taken by the creditor to obtain payment of the debt from the committee. The committee may, for example, submit bills and correspondence from the creditor concerning the debt.
- Terms of Credit. The debt settlement statement should indicate the amount of the outstanding debt and the amount the creditor has agreed to forgive.

Submission of Debt Settlement Statement

A political committee -- not its creditors -- should submit the debt settlement statement and any supporting documentation. When the Commission receives a debt settlement statement from a committee, it will:

- Acknowledge receipt of the statement; and
- Inform the committee that it must continue reporting the debt(s) until the Commission has determined that the statement is in compliance with the Act and Commission Regulations.

Note: To expedite processing of debt settlement statements, committees should submit their statements independent of other submissions and reports.

Commission Review

The Commission will review the information submitted with a debt settlement statement for completeness and will notify a committee if it requires additional information. Once the Commission has sufficient information, the Office of General Counsel will determine whether, on the face of the statement, there is an apparent violation of the Act or FEC Regulations.

A debt settlement statement and any related documents (e.g., FEC requests for additional information concerning the statement) will be placed on the public record with a committee's other reports and statements.



ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject
1982-47	Candidate's three Senate primary campaigns as separate elections for purposes of contribution limits. (Date made public: August 6, 1982; Length: 3 pages)
1982-48	Coordinated (\$441a(d)) expenditures made by state party committee on behalf of independent House candidate. (Date made public: August 6, 1982; Length: 1 page)
1982-49	Contributions designated for primary runoff used for expenses anticipating runoff. (Date made public: August 10, 1982; Length: 2 pages)

The Record is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Frank P. Reiche, Chairman; Danny Lee McDonald, Vice Chairman; Joan D. Aikens; Lee Ann Elliott; Thomas E. Harris; John Warren McGarry; William F. Hildenbrand, 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.

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

-- In response to **AOR 1982-43** (affiliated committee status for PACs established by two corporations and by a joint venture corporation formed by the two corporations), the General Counsel informed the requester in a letter issued July 22, 1982, that the Commission had failed to approve an advisory opinion by the requisite four-vote majority.

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 1982-40: Conversion of Membership Organization's State PAC to Federal PAC

APEP is the political action fund of the Ohio Farm Bureau Federation, Inc. (OFBF), an incorporated membership organization, which has been used to support state candidates. It may become a (federal) separate segregated fund (PAC) and support federal elections by using funds originally donated for state elections. APEP's use of state funds is permissible because:

1. The funds contain no corporate contributions. (Since Ohio law prohibits corporate contributions, the state PAC restricted its solicitations to OFBF's individual members.)
2. The funds were solicited from bona fide members of OFBF only -- i.e., individuals who participated, through voting control in local farm bureaus, in the direction of OFBF, who had rights and interests in OFBF, and who helped support OFBF through regular dues payments.
3. Although APEP's original solicitation for state funds did not meet all the literal requirements of FEC Regulations for soliciting federal funds, its solicitations were in substantial compliance with the Regulations. Specifically, the solicitations made clear that contributions: a) were entirely voluntary; b) would be used for political purposes (i.e., to support state legislators who were "Friends of Agriculture"); and c) were not a condition for continued membership in OFBF. The Commission noted, however, that in the future APEP would have to meet all the solicitation requirements of Section 114.5 of Commission Regulations.

Once converted into a federal PAC, however, APEP must:

1. Disclose, on its first report, the source of its cash on hand, along with the information required by Section 104.3 of Commission Regulations; and
2. Exclude from use in federal elections any funds that are not permissible under the Act.

Additionally, since OFBF has trade association status under Commission Regulations (11 CFR 114.8(a)), it may solicit contributions to the federal PAC from its individual members, as well as from the solicitable personnel of its corporate members, provided the solicitations meet the requirements of the Act and Commission Regulations. 2 U.S.C. §441b(b)(4)(D); 11 CFR 114.8. The federal PAC may also accept **unsolicited** contributions from other unaffiliated political committees. 11 CFR 114.5(j) and 114.7(j). Commissioner Thomas E. Harris filed a dissenting opinion. (Date issued: July 15, 1982; Length: 7 pages, including dissent)

AO 1982-42: Union's Reimbursement to PAC for Administrative Costs

The National Treasury Employees Union (NTEU) may not reimburse its separate segregated fund, the Treasury Employees Political Action Committee (TEPAC), for a portion of TEPAC's establishment, administration and solicitation costs, which TEPAC stated it had "inadvertently paid" between 1979 and 1981 as the result of a "mistaken impression" that these costs were attributable to it.

If NTEU had originally paid **all** the costs incurred in establishing and administering TEPAC, its payments would have been fully exempt from the Act's definitions of "contribution" and "expenditure." 2 U.S.C. §441b(b)(2)(C). By reimbursing TEPAC three years later, however, NTEU would be making a prohibited contribution to TEPAC because the funds would, in effect, be used for contributions rather than for exempt expenditures. 2 U.S.C. §441b(b)(3)(A); 11 CFR 114.5(a).

The Commission distinguished this ruling from those in AOR 1976-111 (an Opinion of Counsel) and AO 1979-33. In AOR 1976-111, issued before Commission regulations had been prescribed, the Commission had ruled that a labor organization could reimburse its separate segregated fund for a legal service fee inadvertently paid by the fund. TEPAC's inadvertent payments, however, did not consist of a legal fee, and they occurred over a three-year period during which time TEPAC could have consulted Commission Regulations governing the administration of separate segregated funds or could have availed itself of the advisory opinion procedures. Similarly, in AO 1979-33, the Commission had ruled that a union could reimburse its separate segregated fund for the costs of a banquet which the union had mistakenly under-

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stood to be a political fundraiser. That reimbursement merely corrected a single, factual mistake rather than rectifying a course of considered, discretionary actions conducted over several years, as in TEPAC's case. (Date issued: July 15, 1982; Length: 5 pages)

AO 1982-45: Affiliated Status of Public Works Organizations for Purposes of PAC Solicitations

The Salt River Valley Water Users' Association (the Association), the organization representing landowners for whom the federal government sponsored the Salt River irrigation project, and the Salt River Project Agricultural Improvement and Power District (the District), the quasi-governmental organization created to provide inexpensive bond financing for the project, are considered affiliated organizations for purposes of solicitations conducted by either the Association's separate segregated fund, the Project Political Improvement Committee (PPIC), or by the separate segregated fund of the International Brotherhood of Electrical Workers' (IBEW's) local union, Local 266.

The District and the Association are considered affiliated organizations by virtue of their close financial and managerial interrelationships. Specifically, the District holds all the Association's property and provides the Association with capital and operating funds for the Salt River Project (the Project); the District and Association share joint responsibility for the Project's operation; the organizations are managed by the same individuals; and the District's membership consists solely of the Association's members. Accordingly:

1. The Association or PPIC may solicit the District's and the Association's executive and administrative personnel and their families at any time. 11 CFR 114.5(g)(1).
2. The Association or PPIC may solicit the nonexecutive employees of both the District and the Association twice a year. 11 CFR 114.6.
3. If either the Association or the District solicits contributions to PPIC by using a payroll deduction plan, it must also make the plan available to the separate segregated fund of Local 266 for solicitation of union members who are employed by the District and the Association. 11 CFR 114.5(k)(1). (Date issued: July 30, 1982 ; Length: 4 pages)

AO 1982-46: Political Committee Status for State PAC Contributing to Federal Committee

A separate segregated fund becomes a "political committee" under the Act when it makes contributions of **any amount** in connection with federal elections. The TMHA-Committee for Responsible Government (TMHA-CRG), a **nonfederal** political committee sponsored by the Texas Manufactured Housing Association, thus became a "political committee" when it contributed \$1,000 to a fed-

eral political committee. 2 U.S.C. §§431(4)(A)-(C). It was therefore required to register with the Commission within 10 days of making the contribution, file periodic reports and otherwise comply with the Act and Commission Regulations. 2 U.S.C. §§433(a) and 434(a)(4). Moreover, in the first report it files, TMHA-CRG has to disclose any funds received prior to becoming a federal political committee, even if the funds were not received during the current reporting period. 11 CFR 104.3(a) and 104.12.

As a federal political committee financing political activity in connection with both federal and nonfederal elections, TMHA-CRG had two registration and reporting options:

1. It could have established a separate account for federal election activity, which would be treated as a separate political committee subject to the requirements of the Act and Commission Regulations.
2. Alternatively, TMHA-CRG could have registered as a political committee with a single account for federal and nonfederal election activity. In this case, TMHA-CRG could only receive contributions permissible under the Act, regardless of whether the contributions were used for federal or nonfederal elections. 11 CFR 102.5(a)(1)(i) and (ii). (Date issued: July 29, 1982; Length: 3 pages)

THE LAW IN THE COURTS

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS v. FEC

On April 6, 1982, the U.S. Court of Appeals for the District of Columbia Circuit, sitting en banc, issued an opinion in International Association of Machinists and Aerospace Workers (IAM) v. FEC (Civil Action No. 81-1664) that rejected three constitutional challenges to section 441b(b)(3) of the election law, a provision that prohibits corporations and labor organizations from coercing contributions from their solicitable personnel. The U.S. District Court for the District of Columbia had certified the Constitutional questions to the appeals court on June 3, 1981, following its December 16, 1980, ruling in the suit.

Plaintiffs' Claim

In their suit, IAM and six other plaintiffs first claimed that the FEC had acted contrary to law in dismissing their complaint, which alleged that eleven corporations had systematically violated 2 U.S.C. §441b(b)(3) by soliciting contributions to their separate segregated funds (political action committees or PACs) from "unprotected" administrative personnel under "inherently coercive" conditions. Alternatively, if the district court de-

nied the relief requested in their first claim, plaintiffs sought certification of the constitutional questions raised in their suit to an en banc appeals court, pursuant to 2 U.S.C. §437h.

District Court Ruling

The district court concluded, however, that the FEC's determination had not been arbitrary, capricious or contrary to law. Applying the standard for permissible corporate solicitations set forth in Pipefitters Local Union No. 562 v. U.S. (407 U.S. 385(1972)), and later codified in Section 441b(b)(3) of the Act, the court stated: "[N]owhere does FECA (Federal Election Campaign Act) forbid corporate supervisors from asking their subordinates for contributions as long as they comply with the provisions of section 441b(b)(3)." The court concluded "Neither the administrative complaint nor the complaint in this Court, offers direct evidence of wrongdoing." The same court ruled, however, that plaintiffs had standing to have their constitutional issues certified to the appeals court.

Appeals Court Ruling

In separate decisions, the appeals court affirmed the district court's decision that the Commission's dismissal of the complaint was not contrary to law, and also ruled on each of plaintiffs' constitutional questions, as summarized below:

Is the asserted imbalance between corporations and labor unions under the 1976 FECA amendments [codified at 2 U.S.C. §441b(b)(3)] unconstitutional?

Plaintiffs claimed that, in permitting corporate PACs to solicit their **executive and administrative personnel** in addition to their shareholders, the 1976 amendments had violated Fifth Amendment rights of equal protection and First Amendment rights of free speech by upsetting the long-standing balance in political power that had existed between corporations and labor organizations prior to enactment of the 1976 amendments. They argued that Congress had not intended to tip this balance in favor of corporations; rather, Congress had not foreseen the effect of the amendments, namely, the proliferation of corporate PACs and their disproportionate influence on federal elections. Since there are many more corporations than labor organizations, plaintiffs claimed the imbalance is institutional and, consequently, cannot be corrected by labor organizations.

The appeals court found, however, that Congress had attempted to treat labor organizations and corporations in a comparable manner in both the 1971 and 1976 amendments, while taking into account the structural differences between them. By restricting corporate PAC solicitations to administrative and executive employees and shareholders in the 1976 amendments, Congress had restored a similar, if not identical, balance to that which had existed prior to the FEC's 1975

ruling in the SUNPAC advisory opinion (AO 1975-23). (The SUNPAC opinion permitted corporations to solicit not only their shareholders but **all** their employees as well.)

By including executive and administrative personnel in a corporation's solicitable personnel, Congress had taken into account the structural differences between labor organizations and corporations, while applying the standard for solicitable personnel even handedly. The appeals court noted that, in this regard, "it is...more likely that a corporation's career employees will identify with the corporate direction, purpose, and welfare than will a shareholder who does not own a controlling interest."

In affirming Congress' decision to shape the solicitation procedures of the election law to reflect differences in organizational structure, the appeals court cited recent rulings of the U.S. Court of Appeals for the Seventh Circuit that upheld the constitutionality of other solicitation arrangements. For example, in Bread PAC v. FEC,* the court rejected a Fifth Amendment challenge to restrictions placed on a trade association seeking to solicit the solicitable personnel of its member corporations. Similarly, in California Medical Association v. FEC,* the court rejected an equal protection challenge to a provision which prohibits unincorporated associations, unlike corporations and labor organizations, from spending unlimited funds to establish and administer a political action committee.

Furthermore, the appeals court cautioned that "the Constitution, as historically and currently interpreted, does not afford any guarantee against one person's or group's ability to fund more speech than can another. In fact, far from imposing on Congress an obligation to equalize the voices of corporate and labor PACs, the Constitution, as the Supreme Court now reads it, may forbid Congress to act in such a manner. See Buckley v. Valeo, 424 U.S. at 48-49."

Does the statute impair career employees' First Amendment right of political abstention by permitting the corporate PAC solicitation as detailed in the record?

Plaintiffs alleged that, even though Section 441b(b)(3) sanctions corporate PAC solicitations of executive and administrative personnel, these solicitations are inherently coercive, in violation of First Amendment free speech rights. As evidence of this coercion, plaintiffs pointed out that executive and administrative employees "give to the corporate political fund at rates and in amounts far beyond those which obtain when

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*Bread PAC v. FEC is summarized on p. 6 of the May 1981 Record. California Medical Association v. FEC is summarized on p. 1 of the August 1981 Record.

donors are not solicited to give to the institution that employs them." The appeals court said, however, "One could argue with equal force that career employees contribute to their corporate PACs out of a desire to further what they perceive to be their own best interests or the best interests of the corporation, and because they have the wherewithal to do so, not because they are coerced or intimidated."

Deferring to Congress' judgment, the appeals court further held that the 1976 amendments extended the same protections against coercion to corporate executive and administrative personnel that had been provided to union members and shareholders in the 1971 amendments. It had no "evident reason to believe that protections...relied upon to secure union members against union pressure would be less adequate in securing career employees against corporate pressure." The appeals court reasoned that a more important consideration was the risk of coercion that corporate solicitations posed for a corporation's hourly wage earners. "The statutory language plainly demonstrates that concern: solicitation of hourly employees is severely restricted; solicitation of career employees is generally permitted, but is brigaded with protections designed to prevent overreaching."

Nor did the court find any merit to plaintiffs' contention that the 1976 amendments constituted a form of government-compelled activism on the part of PAC contributors.

Does the use of general corporate assets to establish and support a corporate PAC violate the First Amendment rights of dissenting shareholders?

Plaintiffs claimed that the FECA provision permitting corporations to use treasury funds to establish and administer a PAC abridge the free speech rights of shareholders who objected to such use of corporate assets. The court found that the chief case cited by plaintiffs in support of their claim, Abood v. Detroit Board of Education, was not applicable. The appeals court pointed out that "in Abood the [Supreme] Court had held that the First Amendment prohibited a public employee union from requiring any employee to contribute to the support of an ideological cause he may oppose as a condition of holding a job." A corporate shareholder, the court reasoned, is under no such compulsion. Citing the Supreme Court's decision in First National Bank of Boston v. Bellotti, the appeals court said "[T]he shareholder invests in a corporation of his own volition and is free to withdraw his investment at any time and for any reason." 435 U.S. at 794 n. 34.

NEW LITIGATION

Carter/Mondale Presidential Committee, Inc. v. FEC

The Carter/Mondale Presidential Committee, Inc. (the Committee) asks the appeals court to review certain final Commission determinations

with regard to the FEC's audit of the Committee's 1980 primary campaign.* Specifically, the Committee alleges that the Commission committed an error by failing to:

- Afford the Committee a hearing at any stage of the audit process.
- Permit the Committee's good faith reliance on state expenditure estimates, prepared by a certified public accountant, which would have allowed the Committee to reduce its repayment obligation.**
- Reduce the Committee's repayment obligation. The Committee claims that repayments required for overspending in certain states should be reduced because campaign debts owed in these states have been lowered.

The Committee also seeks the court's review of an FEC decision to compute its repayments on the basis of both private and public funds held by the Committee.

U.S. Court of Appeals for the District of Columbia Circuit, Docket No. 82-1754, July 6, 1982.

*Pursuant to 26 U.S.C. §9038, the Commission is required to audit the campaign of any primary candidate who receives public matching funds.

**Presidential committees accepting primary matching funds are subject to state-by-state spending limits for their primary campaigns. Expenditures in excess of these limits must be repaid to the U.S. Treasury. 2 U.S.C. §441a(b)(1)(A) and 26 U.S.C. §§9035(a) and 9038(b).



The items below identify FEC documents that appeared in the Federal Register between May and August 1982. Copies of the notices are available in the Public Records Office.

Notice	Title
1982-4	Notice of Filing Dates for Special Primary and Special General Elections, 17th Congressional District, Ohio (Date published: May 17, 1982; Citation: 47 <u>Fed. Reg.</u> 21142)
1982-5	Candidate's Use of Property in Which Spouse Has Interest; Notice of Proposed Rulemaking (Date published: July 20, 1982; Citation: 47 <u>Fed. Reg.</u> 31390)
1982-6	11 CFR Parts 106 and 9031 <u>et seq.</u> , Presidential Primary Matching Fund; Notice of Proposed Rulemaking (Date published: August 17, 1982; Citation: 47 <u>Fed. Reg.</u> 35892)

COMPLIANCE

SUMMARY OF MURs

The Act gives the FEC exclusive jurisdiction for its civil enforcement. Potential violations are assigned case numbers by the Office of General Counsel and become "Matters Under Review" (MURs). All MUR investigations are kept confidential by the Commission, as required by the Act. (For a summary of compliance procedures, see 2 U.S.C. §§437g and 437(d)(a) and 11 CFR Part 111.)

This 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. Note that the Commission's actions are not necessarily based on, or in agreement with, the General Counsel's analysis. The full text of this MUR is available for review and purchase in the Commission's Public Records Office.

MUR 1399: Independent Expenditures Made by Projects of National Independent Expenditure Committee

On May 5, 1982, the Commission found no reason to believe that the Act had been violated by either a national independent expenditure committee or by seven projects sponsored by the committee to make independent expenditures advocating the defeat of various 1980 Senate candidates.

Complaint: On November 2, 1981, a national political committee (with no sponsor) filed a complaint against seven respondents who had allegedly made independent expenditures to oppose the election of selected Senate candidates during the 1980 elections. (After reviewing the complaint, the General Counsel also named an independent expenditure committee as a respondent.) The complainant alleged that:

1. The respondents had failed to register and report as political committees, in violation of 2 U.S.C. §§433 and 434.
2. In many cases, the title of the respondent had included the name of the candidate the respondent had sought to defeat, in violation of 2 U.S.C. §432(e)(4). Alternatively (if the Commission concluded the respondents were not political committees) the independent expenditure committee had violated §432(e)(4) by including the names of the candidates in the titles of the groups it identified as sponsors of its communications with the public.
3. The initial respondents and the independent expenditure committee had failed to identify themselves as affiliated committees or connected organizations, in violation of 2 U.S.C. §433(b)(2).

Although it made no formal allegation, the complainant committee also expressed concern that, by calling the respondents "projects," the independent expenditure committee misrepresented their purpose and prevented full public scrutiny of their activities.

General Counsel's Report:

Political Committee Status of the Projects. The complainant had alleged that the respondents had failed to register as political committees and report to the FEC when each had made independent expenditures exceeding \$1,000 to oppose the election of a targeted Senate candidate during 1979 or 1980. As examples of the respondents' independent expenditures, the complainant cited their distribution of campaign literature, their purchase of radio advertisements and their solicitation of contributions for independent expenditure activities. In support of its allegation, the complainant submitted a budget, prepared by the independent expenditure committee, that showed "planned expenditures for both the [sic] mailings as well as the radio advertisements."

The General Counsel found, however, that the independent expenditure committee's budget, along with other evidence, supported the opposite conclusion, namely, that the respondents were not political committees but, instead, were programs or projects sponsored by the committee. In the committee's budget, the respondents were discussed in the context of the committee's strategy to defeat certain incumbent Senate candidates in the 1980 elections. Moreover, as noted by the General Counsel, the independent expenditure committee's chairman and treasurer had authorized each respondent (i.e., project), had identified each respondent's bank account on the committee's Statement of Organization and had disclosed each respondent's financial activity on the committee's reports and statements. In addition, the authorization notice appearing on each communication clearly identified the respondent as a "project" of the independent expenditure committee: "Paid for by [respondent's name], a project of the _____ Committee, and not authorized by any candidate."

Use of Candidates' Names. As to the complainant's allegation that the respondents had violated Section 432(e)(4), which permits only those political committees **authorized** by a candidate to use his or her name in their titles, the independent expenditure committee asserted that the respondents were not subject to this provision because they were **not** political committees. Rather, the respondents' titles (e.g., "Anybody But Candidate X") constituted political slogans protected by First Amendment rights of free speech. The General Counsel found that, since the respondents were **not** political committees, they were not subject to Section 432(e)(4). Moreover, the independent expenditure committee had not violated Section 432(e)(4) because its title did not include the name of any candidate.

Failure to Report as Connected Organizations. The complainant contended that the respondents had administered and financially supported the independent expenditure committee and, thus, should have been named as connected organizations on the committee's Statement of Organization. To support this allegation, the complainant cited the following evidence that the respondents had sponsored the independent expenditure committee: the respondents administered the independent expenditure committee's program to defeat the targeted Senate candidates; and the respondents provided financial support to the independent expenditure committee by soliciting funds on the committee's behalf.

The General Counsel found, however, that the respondents were not connected organizations of the independent expenditure committee, as defined by Section 100.6(a) of Commission Regulations, because they had not established, administered or financially supported the independent expenditure committee. To the contrary, the independent expenditure committee had established and administered the respondents' programs.

The General Counsel therefore recommended that the Commission find no reason to believe that either the independent expenditure committee or its projects had violated any of the provisions cited in the complaint.

Commission Determination: On May 5, 1982, the Commission voted to find no reason to believe

that either the independent expenditure committee or its projects had violated any of the provisions of the Act alleged by the complainant. Nor had the independent expenditure committee violated 2 U.S.C. §432(e)(4) by using a candidate's name in its title.



**SELECTED BIBLIOGRAPHY
OF CAMPAIGN FINANCE
LAWS AVAILABLE**

During July 1982, the FEC's Library issued a Campaign Finance and Federal Elections Bibliography. The Bibliography, which is updated biannually, provides a selected, annotated compilation of publications issued from January 1977 through June 1982. Documents are listed according to four information categories:

- Part I:** Documents pertaining to the 1979 Amendments to the Federal Election Campaign Act (Pub. L. 96-187).
- Part II:** Books, monographs and treatises.
- Part III:** Guidebooks, handbooks, compilations, bibliographies and indices.
- Part IV:** Law review articles and articles from business, political science and general periodical indices.

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