

RECORD

June 1986

999 E Street NW Washington DC 20463

Volume 12, Number 6

REPORTS

NEW YORK SPECIAL ELECTION

On June 10, 1986, New York will hold a special election in its sixth Congressional District to fill the seat vacated by the death of Representative Joseph Addabbo.

Political committees authorized by candidates who are participating in the special election must file pre- and post-election reports for the special election. Note that last minute contributions of \$1,000 or more received by candidate committees, between two and 20 days before the election, must be reported within 48 hours of their receipt.

All other political committees which support candidates in the special election (and which do not report on a monthly basis) must also follow the reporting schedule for the special election detailed below. Note that last minute independent expenditures aggregating \$1,000 or more and made between two and 20 days before an election must be reported within 24 hours after the expenditures are made.

Report	Period Covered	Mailing Date	Filing Date
Pre-election	4/1-5/21	5/26/86	5/29/86
Post-election	5/22-6/30	7/10/86	7/10/86
July Quarterly	Report is waived for committees required to file a post-election report.		

The FEC will send notices on reporting requirements and filing dates to individuals known to be actively pursuing election to this House seat. All other committees supporting candidates in the special election should contact the Commission for forms and more information on required reports. Call 202/376-3120 or, toll free, 800/424-9530.

JULY REPORTING SCHEDULE

The chart and paragraphs on pages 2 and 3 explain the reporting schedule for the various types of filers.

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JULY REPORTING SCHEDULE

Quarterly Report

Due by July 15, the report should cover all activity from April 1 (or from the closing date of the last report filed in 1986) through June 30.

Pre-Primary Report

The report is due 12 days before the primary election and must be complete as of the 20th day before the election. If sent by registered or certified mail, the report must be postmarked no later than the 15th day before the election.

Last-Minute Contributions

Any contribution of \$1,000 or more received by a candidate's committee between two and 20 days before an election must be reported in writing by the recipient Committee within 48 hours after it is received. 11 CFR 104.5(f).

Last-Minute Independent Expenditures

Any independent expenditures aggregating \$1,000 or more and made between two and 20 days before an election must be reported within 24 hours after the expenditure is made. 11 CFR 104.4(b) and (c).

Monthly Report

The monthly report must be filed by July 20. It should cover all activity from June 1 (or from the closing date of the last report filed in 1986) through June 30.

Semiannual Report

The semiannual report must be filed by July 31. It covers all activity from January 1 through June 30.

Change in Filing Frequency

PACs and party committees which plan to change their reporting schedule (e.g., from quarterly to monthly) must notify the Commission of their intention. The committee may notify the Commission by submitting a letter with the next report due under its current reporting schedule. A committee may not change its filing frequency more than once a year. 11 CFR 104.5(c). The FEC requests that Presidential committees also inform the Commission in writing if they decide to change their reporting schedule.

WHERE REPORTS ARE FILED

Committees must file all reports and statements simultaneously with the appropriate federal and state officials. 11 CFR 108.5.

Filing with the Federal Government

- o The principal campaign committees of House candidates and committees supporting or opposing only House candidates file with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515. 11 CFR 104.4(c)(3) and 105.1.
- o The principal campaign committees of Senate candidates and committees supporting or opposing only Senate candidates file with the Secretary of the Senate, Senate Public Records, Hart Senate Office Building, Room 232, Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.
- o All other committees, including the principal campaign committees of Presidential candidates, file with the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. 11 CFR 105.3 and 105.4.

Filing with State Governments

- o The principal campaign committees of Congressional candidates must file a copy of every report and statement with the Secretary of State or the appropriate elections official of the state in which the candidate seeks federal office. 11 CFR 108.3.
- o PACs and party committees making contributions or expenditures in connection with House and Senate races file in the state in which the candidate seeks election. The law requires a copy only of that portion of the report applicable to the candidate(s) being supported. Committees supporting Presidential candidates must file in the state(s) in which the Presidential committee and donor committee have their respective headquarters. See pages 4-6 for the names and addresses of state offices.

HOW TO OBTAIN MORE INFORMATION

Reporting forms for the quarterly (or semi-annual) report will be sent to all registered committees. Forms for the pre-primary report will be mailed to candidate committees only. Other committees which are required to file pre-primary or monthly reports should request forms from the FEC or use photocopies of blank forms previously sent to them.

Questions and requests for forms should be addressed to the Information Services Division, 202/376-3120 or, toll free, 800/424-9530.

Type of Filer	Report			
	Quarterly July 15	Pre-Primary	Monthly July 20	Semiannual July 31
Congressional Candidate Committees: 1986	X	X		
Congressional Candidate Committees: Other Years				X
Presidential Candidate Committees: Monthly Filers ^{1/}			X	
Presidential Candidate Committees: Quarterly Filers	X			
PAC/Party Committees: Monthly Filers ^{2/}			X	
PAC/Party Committees: Quarterly Filers	X	X ^{3/}		
Connected Organizations: Communications ^{4/}	X			

^{1/}All Presidential committees are required to file on either a monthly or a quarterly basis during 1986. 11 CFR 104.5(b)(2).

^{2/}All corporate and labor PACs, nonconnected committees and party committees are required to file on either a monthly or a quarterly basis in 1986.

^{3/}Required only if the committee makes contributions or expenditures (including independent expenditures) in connection with a primary which have not been previously disclosed.

^{4/}Report required if aggregate costs for partisan, internal communications for all 1986 primaries have exceeded \$2,000.

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Joan D. Aikens, Chairman; John Warren McGarry, Vice Chairman; Lee Ann Elliott; Danny Lee McDonald; Thomas E. Harris; Thomas J. Josefiak; Jo-Anne L. Coe, Secretary of the Senate, Ex Officio; Benjamin J. Guthrie, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530.

STATE RECORDS OFFICES

All political committees are required to file a copy of every report (or the pertinent part of it) with the Secretary of State or the appropriate elections official of the state in which the committee conducts activity. (For specific requirements, see 11 CFR Part 108.) Copies of these campaign finance reports should be filed, and may be reviewed and copied, at the following locations:

ALABAMA

Elections Division
Office of the Secretary of State
Room 13A, State House
Montgomery, AL 36130
205/261-7210 \$1.50/pg.

ALASKA

Office of the Lt. Governor
State Capitol, Room 313
Juneau, AK 99811
907/465-3520 \$.25/pg.
Mailing address:
State of Alaska, P.O. Box AA
Juneau, AK 99811

ARIZONA

Office of the Secretary of State
State Capitol, West Wing, 7th Floor
1700 West Washington
Phoenix, AZ 85007
602/255-8683 \$.50/pg.

ARKANSAS

Elections Division
Office of the Secretary of State
State Capitol Building, Room 026
Little Rock, AR 72201
501/371-5070 \$.50/pg.

CALIFORNIA

Political Reform Division
Office of the Secretary of State
1230 J Street, Room 219
Sacramento, CA 95814
916/322-4880 \$.30/pg.
Mailing address:
P.O. Box 1467
Sacramento, CA 95807

COLORADO

Elections Division
Office of the Secretary of State
1560 Broadway, Suite 200
Denver, CO 80202
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CONNECTICUT

Elections Division
Office of the Secretary of State
30 Trinity Street, Room 114
Hartford, CT 06106
203/566-3059 \$.10/pg.

DELAWARE

Office of the Secretary of State
Townsend Building
Dover, DE 19901
302/736-4111 \$.50/pg.
Mailing address:
P.O. Box 1401
Dover, DE 19901

DISTRICT OF COLUMBIA

Office of Campaign Finance
Reeves Municipal Center, Room 440
2000 14th St., N.W.
Washington, D.C. 20009
202/939-8710 \$.10-.15/pg.

FLORIDA

Division of Elections
Office of the Secretary of State
The Capitol, Room 1801
Tallahassee, FL 32301
904/488-7690 \$.10/pg.

GEORGIA

Elections Division
Office of the Secretary of State
State Capitol, Room 110
Atlanta, GA 30334
404/656-2871 1st copy free
2nd+\$.25/pg.

HAWAII

Campaign Spending Commission
335 Merchant Street, Room 215
Honolulu, HI 96813
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Mailing address:
P.O. Box 501
Honolulu, HI 96809

IDAHO

Elections Division
Office of the Secretary of State
205 State House
Boise, ID 83720
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ILLINOIS

State Board of Elections
1020 South Spring Street
Springfield, IL 62704
217/782-4141 \$.10/pg.
Mailing address:
P.O. Box 4187
Springfield, IL 62708
State Board of Elections
Suite 14-100
100 West Randolph Street
Chicago, IL 60601
312/917-6440

INDIANA

Office of the Secretary of State
State House, Room 201
Indianapolis, IN 46204
317/232-6531 \$.15/pg.

IOWA

Campaign Finance Disclosure
Commission
507 10th Street, 5th Floor
Des Moines, IA 50309
515/281-4411 \$.10/pg.

KANSAS

Office of the Secretary of State
State House, Room 234 North
Topeka, KS 66612
913/296-2236 \$.25/pg.

KENTUCKY

Registry of Election Finance
1604 Louisville Road
Frankfort, KY 40601
502/564-2226 \$.10/pg.

LOUISIANA

Elections Division
Office of the Secretary of State
State Capitol, 19th Floor
Baton Rouge, LA 70804
504/342-4966 \$.10/pg.
Mailing address:
P.O. Box 94125
Baton Rouge, LA 70804-9125

MAINE

Commission on Governmental Ethics
and Election Practices
Office of the Secretary of State
State House Station 101
Augusta, ME 04333
207/289-4178 \$.10-.20/pg.

MARYLAND

State Administrative Board
of Election Laws
11 Bladen Street
Annapolis, MD 21401
301/269-3711 \$.10-.25/pg.
Mailing address:
P.O. Box 231
Annapolis, MD 21404-0231

MASSACHUSETTS

Division of Public Records
Office of the Secretary of State
1701 McCormack Building
One Ashburton Place
Boston, MA 02108
617/727-2832 \$.20/pg.

MICHIGAN

Elections Division
Office of the Secretary of State
4th Floor, Mutual Bldg.
208 N. Capitol Avenue
Lansing, MI 48918
517/373-2540 \$.16/pg.
Mailing address:
P.O. Box 20126
Lansing, MI 48901

MINNESOTA

Elections Division
Office of the Secretary of State
180 State Office Building
St. Paul, MN 55155
612/296-2805 \$.25/pg.

MISSISSIPPI

Office of the Secretary of State
401 Mississippi Street, Room 223
Jackson, MS 39201
601/359-1350 \$.30-.60/pg.
Mailing address:
P.O. Box 136
Jackson, MS 39205

MISSOURI

Division of Campaign Reporting
Office of the Secretary of State
Truman Office Building, 8th Floor
Jefferson City, MO 65102
314/751-3077 \$.15 .50/pg.
Mailing address:
P.O. Box 1370
Jefferson City, MO 65102

MONTANA

Office of Political Practices
1205 8th Avenue
Helena, MT 59620
406/444-2942 \$.10/pg.

NEBRASKA

Office of the Secretary of State
State Capitol, Suite 2300
Lincoln, NE 68509
402/471-2554 \$.100/pg.

NEVADA

Office of the Secretary of State
Capitol Complex
Carson City, NV 89710
702/885-5203 \$.50/pg.

NEW HAMPSHIRE

Office of the Secretary of State
State House, Room 204
Concord, NH 03301
603/271-3242 \$.15/pg.

NEW JERSEY

Elections Division
Department of State
107 West State Street
Trenton, NJ 08625-0304
609/292-3760 \$.10-.50/pg.

NEW MEXICO

Office of the Secretary of State
Room 400
Executive-Legislative Building
Santa Fe, NM 87503
505/827-3620 \$.10/pg.

NEW YORK

State Board of Elections
One Commerce Plaza, 18th Floor
Albany, NY 12260
518/474-8200 \$.10/pg.
Mailing address:
P.O. Box 4
Albany, NY 12260

NORTH CAROLINA

Campaign Reporting Office
State Board of Elections
Raleigh Building, Rm. 809
5 West Hargett Street
Raleigh, NC 27601
919/733-2186 \$.25/pg.
Mailing address:
P.O. Box 1934
Raleigh, NC 27602

NORTH DAKOTA

Office of the Secretary of State
State Capitol, First Floor
Bismarck, ND 58505
701/224-2900 \$.25/pg.

OHIO

Office of the Secretary of State
30 East Broad Street, 14th Floor
Columbus, OH 43266-0418
614/466-2585 \$.10-1.00/pg.

OKLAHOMA

Office of the Secretary of State
101 State Capitol
Oklahoma City, OK 73105
405/521-3911 \$1.00/pg.

OREGON

Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310
503/378-4144 \$.15/pg.

PENNSYLVANIA

Bureau of Commissions,
Elections & Legislation
305 North Office Building
Harrisburg, PA 17120
717/787-5280 \$.10/pg.

RHODE ISLAND

Elections Division
Office of the Secretary of State
State House, Room 218
Providence, RI 02903
401/277-2340 \$.15/pg.

SOUTH CAROLINA

State Election Commission
2221 Devine Street, Room 105
Columbia, SC 29205
803/758-2571 \$.25/pg.
Mailing address:
P.O. Box 5987
Columbia, SC 29250

SOUTH DAKOTA

Office of the Secretary of State
State Capitol Building, 2nd Floor
500 East Capitol
Pierre, SD 57501-5077
605/773-3537 \$.50/pg.

TENNESSEE

Elections Division
Office of the Secretary of State
James K. Polk Bldg., Suite 500
Nashville, TN 37219
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TEXAS

Disclosure Filing Division
Office of the Secretary of State
State Capitol, Room 127
Austin, TX 78711
512/463-5704 \$.15-.55/pg.
Mailing address:
P.O. Box 12887
Austin, TX 78711

UTAH

Office of the Lieutenant Governor
State Capitol Building, Room 203
Salt Lake City, UT 84114
801/533-5111 \$.35/pg.

VERMONT

Office of the Secretary of State
Redstone Building
26 Terrace Street
Montpelier, VT 05602
802/828-2363 \$.10/pg.
Mailing address:
State Office Building
Montpelier, VT 05602-2198

VIRGINIA

State Board of Elections
101 Ninth Street Office Building
Richmond, VA 23219
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WASHINGTON

Public Disclosure Commission
403 Evergreen Plaza
Olympia, WA 98504
206/753-1111 \$.10-.25/pg.

WEST VIRGINIA

Office of the Secretary of State
State Capitol, Room 157-K
Charleston, WV 25305
304/345-4000 \$.75-1.00/pg.

continued

WISCONSIN

State Elections Board
132 East Wilson Street, 3rd Floor
Madison, WI 53702
608/266-8005 \$.15-.20/pg.

WYOMING

Elections Division
Office of the Secretary of State
Capitol Building, Room 106
Cheyenne, WY 82002-0020
307/777-7378 \$.15-.50/pg.

NOTE: These reports are made available for public review and copying provided that any information copied from these reports shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, other than using the name and address of any political committee to solicit contributions from such committee. 2 U.S.C. §438(a)(4).

REGULATIONS

FEC DENIES COMMON CAUSE'S PETITION FOR "SOFT MONEY" RULEMAKING

On April 29, 1986, the Federal Election Commission published a notice in the Federal Register denying a petition for rulemaking filed by Common Cause on November 6, 1984. 51 Fed. Reg. 15915. Common Cause's petition had requested that the Commission initiate a rulemaking to address the alleged improper use, in federal elections, of funds that are ostensibly raised and spent for state and local elections. Such funds are not disclosed under the federal election law.* The agency also considered, but rejected, a staff proposal to revise the regulatory provisions governing the establishment of federal and nonfederal accounts (11 CFR 102.5(b) and 102.6(a)) and the allocation of expenses between the accounts (11 CFR 106.1(e)).

Before reaching its final decision on Common Cause's petition, the Commission took several steps to solicit public comments on the use of "soft money" in federal elections. In January 1985, the Commission invited public comment on the petition by issuing a Notice of Availability. 50 Fed. Reg. 477. Five written comments were received in response to this notice, including a supplementary statement from Common Cause that contained proposed rules addressing the "soft money" issue.

In December 1985, the Commission issued a Notice of Inquiry seeking further comment on the broad range of factual and legal questions which Common Cause and others had raised concerning

the "soft money" issue. 50 Fed. Reg. 51535, December 18, 1985. (These issues were summarized in the January 1986 FEC Record, p. 6.) Seventeen submissions were received from 15 persons in response to the Notice of Inquiry. In addition, witnesses representing three interested organizations testified at the Commission's January 29, 1986, public hearing on the notice.

After reviewing the public comments and evaluating the implications of the proposed revisions, the Commission concluded that evidence of improper use of "soft money" in federal elections was insufficient to justify the stringent rules suggested in Common Cause's petition. In the Federal Register notice denying the rulemaking petition, the agency held that the examples offered to support Common Cause's view did not "constitute concrete evidence" that "soft money" had been misused in federal elections. To the contrary, the agency found that "other evidence presented during the proceedings indicate[d] that many transfers to the state and local levels were made from federal funds and were reported to the Commission."

**Since "soft money" is ostensibly raised and spent to influence state and local elections, the funds may contain donations that are prohibited or excessive under the Federal Election Campaign Act. If these funds are ultimately used to influence federal elections, a violation of the Act may occur.*

OPINIONS

ADVISORY OPINION REQUESTS

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

AOR Subject

- 1986-14 Sale of committee's campaign van. (Date made public: April 16, 1986; Length: 2 pages)
- 1986-15 Media expenditures by nonconnected PAC in response to Senate candidate's charges. (Date made public: April 30, 1986; Length: 2 pages, plus 11-page supplement)

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 1986-8: Contributions to Candidate's 1982 Senate Campaign Refunded by his 1986 Senate Campaign

If Mr. James D. Santini becomes a Senate candidate in 1986, the principal campaign committee for his Senate race (the 1986 Committee) may use its campaign funds to refund contributions made to the principal campaign committee for his 1982 Senate race (the 1982 Committee). (Although the 1982 Committee had attempted to refund the contributions before terminating in 1983, several contributors failed to either cash or receive the refunds, totaling approximately \$15,200.)

The 1986 Committee should report the refunded contributions as itemized campaign expenditures. See 2 U.S.C. §434(b) and 11 CFR 104.3(b)(4)(v).

The Act and FEC Regulations permit candidates and their campaigns to decide which types of expenditures will most effectively influence their nominations and elections. Further, the Act provides that candidates may use excess campaign funds for any "lawful purpose" (provided they do

not convert the excess funds to personal use*). In previous advisory opinions, the Commission concluded that making refunds of contributions to a candidate's former campaign constituted a lawful use of his/her current campaign's excess funds.

The Commission noted that its opinion did not address other issues related to the 1982 Committee's activities. (Date issued: April 23, 1986; Length: 3 pages)

AO 1986-9: Candidate's Use of 1986 Campaign Funds to Reimburse Himself for Legal Expenses

Representative Dan Daniel may use campaign funds of his 1986 reelection campaign to reimburse himself for legal expenses he paid in conjunction with inquiries by the House Committee on Standards of Official Conduct. (The Committee's inquiries concerned certain travel payments which Representative Daniel subsequently reimbursed to the Clerk of the House and Beech Aircraft Corporation.)

Under the Act, a candidate may use excess campaign funds to defray ordinary and necessary expenses incurred in connection with his officeholder duties or to defray expenses for "any other lawful purpose." (The election law prohibits candidates from converting excess campaign funds to personal use, but this prohibition does not apply to individuals, such as Representative Daniel, who were Members of Congress on January 8, 1980.) Consequently, Representative Daniel may use his campaign funds to reimburse himself for the legal expenses regardless of whether the expenses are considered personal expenses; "politically related" expenses; ordinary and necessary expenses of a federal officeholder; or expenses for some other lawful purpose. See AOs 1977-39 and 1985-22.

Reporting Requirements

Since Representative Daniel has two authorized committees for his 1986 reelection effort, the authorized committee that makes the reimbursement should report the transaction. It should be disclosed as an "other disbursement." See 11 CFR 104.3(b)(2)(vi). If the reimbursement exceeds \$200, the committee must use a Schedule B to:

- o Itemize the amount, date and purpose of the disbursement; and
- o Identify Representative Daniel as the payee. 11 CFR 104.3(b)(4)(vi).

(Date issued: April 22, 1986; Length: 2 pages)

*This prohibition on conversion to personal use does not apply to any candidate (including Mr. Santini) who was a Representative in Congress on January 8, 1980.

AO 1986-11: Act's Preemption of Ohio Law Governing Campaign Logo

Margaret Mueller's principal campaign committee may use the logo "Margaret Mueller Congress" on stationery, publications and other materials used to promote Ms. Mueller's candidacy for an Ohio House seat, even though the particular wording of her logo may be prohibited by Ohio law. The state law requires the committee of a challenger candidate to include either the word "elect" or "for" in its logo to indicate that the candidate does not currently hold the office being sought. However, since the Act does not contain this requirement and since the Federal Election Campaign Act (the Act) "supersedes and preempts" any provision of state law with respect to election to federal office, the Mueller Committee does not have to include these words in its logo. 2 U.S.C. §453; 11 CFR 108.7.

The Commission based its determination on a series of advisory opinions concerning preemption issues and the legislative history of 2 U.S.C. §453. (Date issued: April 17, 1986; Length: 3 pages)

AO 1986-14: Proceeds from Sale of Committee's Campaign Van

The Dan Burton for Congress Committee (the Committee), Representative Burton's principal campaign committee for his 1986 reelection effort, may sell its depreciated campaign van. The proceeds from the sale will not result in a contribution from the purchaser to the Committee, provided that:

- o The van is sold at the usual and normal price (in this case, a price that conforms with those listed in generally recognized motor vehicle trade publications and that takes into account the overall condition of the van);
- o The Committee does not repurchase or lease back the van; and
- o The sale is not made in connection with political messages or contribution solicitations.

The Commission noted that it was significant that the van was a depreciated asset, that it was used in previous elections and that it would be sold in a single, isolated transaction.

The Committee should report the sales proceeds as "other receipts" and should identify the purchaser as well as the amount and date of the receipt. The Committee may wish to briefly explain that the receipt represents the purchase price paid for the sale of the van.

The Commission distinguished this opinion from several previous opinions where political committees wanted to sell fundraising items or unique campaign materials, or to pursue commercial-type ventures which, over an indefinite period of time, would produce revenue for campaign expenditures. See AOs 1979-17, 1979-76, 1980-19, 1980-34, 1980-70, 1981-7 and 1983-2. In these AOs, the proposed sales would have resulted

in contributions. The Burton Committee's situation, however, was closer to two other opinions where political committees were allowed to liquidate assets without the transaction resulting in a contribution. See AOs 1979-24 and 1985-1. Commissioner Thomas E. Harris filed a concurring opinion. (Date issued: May 1, 1986; Length: 7 pages, including concurrence)

COURT CASES

ANTOSH v. FEC (Fourth Suit)

On April 4, 1986, the U.S. District Court for the District of Columbia issued an order which granted the FEC's motion for summary judgment in *Antosh v. FEC* and which dismissed with prejudice plaintiff Edward Antosh's complaint. (Civil Action No. 85-2036) The court held that, under Article III of the Constitution, Mr. Antosh lacked standing to seek judicial review of the FEC's dismissal of his administrative complaint.

Background

A resident of Oklahoma, Mr. Antosh had filed his administrative complaint with the FEC in April 1984. In the complaint, he alleged that: 1) the Engineers Political Education Committee (EPEC), the separate segregated fund of the International Union of Operating Engineers, had violated the election law by making excessive contributions to Arizona Senator Dennis DeConcini's 1982 primary campaign (the campaign); and 2) the campaign had violated the election law by accepting the excessive contributions. The Commission determined that there was reason to believe EPEC had violated the election law by making excessive contributions to Senator DeConcini's reelection campaign. However, in a tie vote, the agency failed to find reason to believe that the campaign had violated the law.

On June 21, 1985, Mr. Antosh filed suit with the district court. He claimed that the FEC's determination that the campaign had not violated the law was arbitrary and capricious. In cross motions for summary judgment, Mr. Antosh claimed that he had standing to bring suit because, under the election law, "[a]ny party aggrieved by an order of the Commission dismissing a complaint filed by such party...may file a petition with the U.S. District Court for the District of Columbia." 2 U.S.C. §437g(a)(8)(A).

District Court's Ruling

In ruling that Mr. Antosh lacked standing to seek judicial review of the FEC's determination, the court referred to the requirement that an

aggrieved party must "show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant...." to establish standing under Article III.

The court held that Mr. Antosh failed to meet this requirement. As a citizen of and a registered voter in Oklahoma, Mr. Antosh had "suffered no greater injury, nor likely will he in the future, as a result of the Commission's failure to order a refund, than any other U.S. citizen who is neither a resident of nor with franchise in Arizona." The court concluded that "plaintiff has no interest save his own, which is, at the moment, only that of a public-spirited spectator of Arizona elections."

Finally, the court noted that the standard for qualifying as an "aggrieved party" (eligible to seek judicial review for an administrative agency's determination) was higher than the standard for filing an administrative complaint with an agency. "Congress can permit anyone to engage in proceedings before them [administrative agencies]. But it cannot confer upon a participant at the administrative level the right to maintain a suit to review the agency's decision in federal court, no matter how grievously he may be offended by it...."

The court did not address issues related to the merits of the FEC's administrative determinations or its own jurisdiction to review those determinations.

FEC v. RHOADS FOR CONGRESS COMMITTEE

On May 2, 1986, the U.S. District Court for the Northern District of Illinois approved a consent order between the Commission and the Rhoads for Congress Committee (the Committee), Mark Q. Rhoads's principal campaign committee for his 1982 Illinois House race, and the Committee's treasurer, William E. Naegel. Defendants acknowledged that they had violated section 441a(f) of the election law by accepting excessive contributions from:

- o Mary G. Rhoads, the candidate's mother, who made the excessive contributions by personally endorsing and providing security for two loans,* portions of which were accepted by the Committee (i.e., \$17,000); and
- o The Mid-America Conservative Political Action Committee (MAPAC), a nonconnected PAC. (At the time MAPAC made the excessive contributions, its per election limit was \$1,000, rather

*Under the election law and FEC Regulations, endorsements and guarantees of loans, including those made by the candidate's family, count as contributions to the extent of the outstanding balance of the loan. 2 U.S.C. section 431(a)(A)(i) and 11 CFR 100.7(a)(1)(i)(C).

than \$5,000, because the PAC had not yet qualified for multicandidate status.)

Defendants agreed to pay a \$2,000 civil penalty within 30 days of the court's order.

ALWIN E. HOPFMANN v. FEC

On May 5, 1986, the Supreme Court denied appellant Alwin E. Hopfmann's petition for a rehearing of his petition for a writ of certiorari in Hopfmann v. FEC (Civil Action No. 85-659). The Court had originally denied the petition in December 1985. Federal court actions on the suit are summarized in the following issues of the Record: May and September 1984 and July and September 1985.

NEW LITIGATION

FEC v. Beatty for Congress Committee

The FEC asks the district court to declare that the Beatty for Congress Committee, the principal campaign committee for Vander L. Beatty's 1982 House campaign, and the Committee's treasurer, Edward Myers, Jr., violated the election law by:

- o Knowingly accepting excessive contributions from individuals and from a political committee (2 U.S.C. §441a(f));
- o Knowingly accepting an excessive loan from the candidate's family and failing to report the loan (2 U.S.C. §§434(b)(3)(E) and 441a(f));
- o Accepting prohibited contributions from corporations and labor organizations (2 U.S.C. §441b); and
- o Accepting corporate loans and failing to report them (2 U.S.C. §§441b and 434(b)(3)(E)).

The FEC also asks the court to find that the Committee violated the law's recordkeeping and reporting requirements by:

- o Failing to file two 1982 quarterly reports on time (2 U.S.C. §434(a)(2)(A)(iii));
- o Failing to file 1982 pre-primary and year-end reports and a 1983 mid-year report (2 U.S.C. §§434(a)(2)(A)(i) and (iii));
- o Failing to maintain adequate records of contributions (2 U.S.C. §§432(c)(1)-(3));
- o Failing to itemize certain contributions and expenditures (2 U.S.C. §§434(b)(3) and 434(b)(5)(A)); and
- o Failing to continuously report two loans until extinguished (11 CFR 104.11(a)).

The FEC asks the court to impose a civil penalty against the Committee and its treasurer amounting to the greater of \$5,000 or 100 percent of the total amount involved in the violations.

U.S. District Court for the Southern District of New York, 86-CIV.-3899 (RLC), May 16, 1986.

FEC v. Jimmy Carter Committee for a Greater America

The FEC asks the district court to declare that the Jimmy Carter Committee for a Greater America, a nonconnected PAC, and its treasurer, Chip Carter, violated the election law by failing to file quarterly and post-general election reports with the FEC for the 1984 election year. 2 U.S.C. §§434(a)(4)(A)(i) and (iii).

The FEC further asks the court to:

- o Assess a civil penalty against the defendants amounting to the greater of \$5,000 or 100 percent of the amount involved in the violations; and
- o Permanently enjoin the defendants from further violations of the election law.

U.S. District Court for the Northern District of Georgia, Civil Action No. C86-774A, April 7, 1986.

FEC v. New Republican Victory Fund

The FEC asks the district court to declare that the New Republican Victory Fund, a nonconnected PAC, and the Fund's treasurer, Charles R. Black, Jr., violated the election law's reporting requirements during the 1984 election year by failing to file the Fund's October quarterly, year-end and post-general election reports and by failing to file the July quarterly report on time. 2 U.S.C. §§434(a)(4)(A)(i) and (iii).

The FEC further asks the court to:

- o Assess a civil penalty against defendants amounting to the greater of \$5,000 or 100 percent of the amount involved in the violations; and
- o Permanently enjoin defendants from further violations of the election law.

U.S. District Court for the Eastern District of Virginia, Alexandria Division, Civil Action No. CA86-0402-A, April 18, 1986.

FEC v. 1984 Victory Fund (Second Suit)

The FEC asks the district court to:

- o Declare that the 1984 Victory Fund (the Fund), a nonconnected PAC, and the Fund's treasurer, Vincent G. Downing, violated the election law by failing to file a 1984 October quarterly report, a 1984 post-election report and a 1984 year-end report (2 U.S.C. §§434(a)(4)(A)(i) and (iii));
- o Assess a civil penalty equal to the greater of \$5,000 or 100 percent of the amounts involved in the violations; and
- o Permanently enjoin the defendants from further violations of the election law.

U.S. District Court for the Southern District of New York, Civil Action No. 86-CIV.-3891, May 16, 1986.

COMPLIANCE

FEC PUBLISHES NONFILERS

In April the Commission published the names of two House campaigns (one in Nebraska and one in South Carolina) which had failed to file their first quarterly report. In addition, in April and May, the agency published the names of six Congressional campaigns in Texas, Indiana, North Carolina, Nebraska and Pennsylvania that had failed to file their pre-primary reports, required 12 days before the election.

The election law requires the agency to publish the names of nonfiling candidates. Compliance actions against nonfilers are decided on a case-by-case basis. The law gives the Commission broad authority to initiate enforcement actions resulting from infractions of the law, including civil court enforcement and imposition of civil penalties.

PUBLICATIONS

FEC SENDS ANNUAL REPORT TO PRESIDENT AND CONGRESS

On June 1, 1986, the Commission sent to the President and the Congress the Annual Report 1985, which describes Commission activities and lists Commission recommendations for amending the campaign finance law. (See the April Record for a summary of the recommendations.)

This year's Annual Report also includes, for the first time, a special section on statistical trends. It graphically depicts 1983-84 campaign finance activity conducted by candidates, PACs, political parties and individual supporters.* The publication further discusses:

- o The 1984 Presidential elections;
- o Commission activity, including summaries of major legal decisions; and
- o Budgetary and administrative issues.

Those who are interested in obtaining a copy of the Annual Report 1985 should contact the Information Services Division at 376-3120 or, toll free, 800/424-9530.

*This statistical material was previously published in March 1986 as a special issue of the Record.

STATISTICS

NEW DATA AVAILABLE ON CONGRESSIONAL CAMPAIGNS

Spending for 1986 Senate and House races has already topped \$100 million, according to figures released on May 12 by the Commission. FEC figures also show that Senate candidates have raised almost \$80 million, of which approximately 68 percent (\$54 million) comprised contributions from individuals. On the House side, candidates have raised more than \$87 million, of which 54 percent (or \$47 million) came from individuals.

On the chart below, the data reflects the fifteen-month activity of only those candidates who have registered with the FEC for 1986 races. Since some candidates have not yet registered or begun to report, and since some first-quarter reports may have been filed late, the figures do not include all financial transactions for the 1986 elections.

CANDIDATE CAMPAIGN ACTIVITY January 1985 through March 31, 1986^{1/}

	Number	Net ^{2/} Re- ceipts	Indi- vidual Contri- butions	Contri- butions from Other Commit- tees ^{3/}	Candi- date Contri- butions	Candi- date Loans	Other Loans	Net ^{4/} Dis- burse- ments	Cash on Hand ^{5/}
SENATE	174	\$79.80	\$54.10	\$16.40	\$0.30	\$2.00	\$0.40	\$46.00	\$42.10
Incumbents	27	46.60	32.30	11.80	0.00	0.00	0.00	24.10	30.10
Challengers	106	17.80	12.10	2.20	0.20	0.90	0.30	12.40	5.90
Open Seats	41	15.40	9.70	2.40	0.10	1.10	0.10	9.50	6.10
HOUSE	1261	\$87.30	\$46.80	\$25.90	\$1.30	\$6.10	\$0.60	\$58.10	\$57.90
Incumbents	396	62.90	31.30	23.90	0.20	1.30	0.40	39.40	51.70
Challengers	638	9.20	5.40	0.80	0.50	2.20	0.00	7.30	2.30
Open Seats	227	15.20	10.10	1.20	0.70	2.50	0.20	11.40	3.90

(In Millions of Dollars)

^{1/} For some candidates from Indiana, North Carolina, Ohio and Texas, reporting period extends beyond 3/31/86.

^{2/} Net receipts include total amounts raised, minus transfers from other committees within the same campaign.

^{3/} Other Committees column includes contributions from PACs and other candidates' committees.

^{4/} Net disbursements include total amounts spent, minus transfers to other committees within the same campaign.

^{5/} Latest cash on hand as of 3/31/86, except for some candidates from Indiana, North Carolina, Ohio and Texas.



This cumulative index lists advisory opinions, court cases and 800 Line articles published in the Record during 1986. The first number in the citation refers to the "number" (month) of the Record issue; the second number, following the colon, indicates the page number in that issue.

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