

RECORD

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FEC PUBLISHES NONFILERS

During November, the Commission published the names of several campaigns that had failed to file disclosure reports required by the election law. See the chart below.

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.

Nonfilers

Candidate	Office Sought	State	Report Not Filed
Duke, D.	President		Pre-Gen.
Fernandez, B.	President		Monthly
Mann, P.	Senate	MN	Pre-Gen.
Cook, T.	House	NY	Pre-Gen.
Cordaro, R.	House	PA	Pre-Gen.
Cowles, J.	House	CA	Pre-Gen.
Cummings, J.	House	IN	Pre-Gen.
Doukas, P.	House	NY	Pre-Gen.
Flake, F.*	House	NY	Pre-Gen.
Gelpi, M.	House	OH	Pre-Gen.
Gilleran, M.	House	MA	Pre-Gen.
Hickey, T.	House	WI	Pre-Gen.
Hussain, R.	House	NY	Pre-Gen.
Kuhle, M.	House	FL	Pre-Gen.
Lang, L.	House	OH	Pre-Gen.
Levitt, J.	House	NY	Pre-Gen.
Moye, H.	House	NC	Pre-Gen.
Pierpont, R.	House	MD	Pre-Gen.
Previdi, R.*	House	NY	Pre-Gen.
Racek, J.	House	NE	Pre-Gen.
Sutton, R.	House	TX	Pre-Gen.

*Report was subsequently filed.

REPORTS DUE IN DECEMBER AND JANUARY

Candidate committees active in the 1988 general election, as well as all registered PACs and party committees, are required to file a post-general election report in December. Following the post-election report, the next report required of all political committees will be the year-end report, due January 31, 1989. To obtain more information, contact the Information Services Division, 999 E Street, N.W., Washington, D.C. 20463; or call 202/376-3120 or toll free 800/424-9530.

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Type of Filer	Post-General Report (12/8)	Year-End Report (1/31/89)
1988 Congressional Candidate Committees Active in the General Election	X	X
1988 Congressional Candidate Committees Not Active in the General Election		X
1988 Presidential Candidate Committees/\$100,000+	X ¹	X
1988 Presidential Candidate Committees/Under \$100,000	X ²	X
Federal Candidate Committees Active in Other Years		X
PAC/Party Committees: Monthly Filers	X ³	X
PAC/Party Committees: Quarterly Filers	X	X

¹Committees of Presidential candidates not running in the general election have a choice of filing a monthly report (due December 20) or the post-general report.

²Report not required if the Presidential candidate does not run in the general election.

³PACs and party committees that file on a monthly schedule file the post-general election report in lieu of the November monthly report.

Post-General Election Report: Quarterly Filers

The post-general election report is due December 8 and must cover activity from the close of books of the last report filed, or the date of registration (whichever is later), through November 28, 1988. Committees that filed a statement of last-minute activity not disclosed on the pre-general election report (i.e., contributions received or independent expenditures made just before the general election) must disclose this activity on the post-general election report.

If sent by registered or certified mail, the post-general election report must be postmarked no later than December 8. Note that all PACs and party committees must file this report, regardless of their election activity.

Post-General Election Report: Monthly Filers

In lieu of the November monthly report, otherwise due in December, monthly filers must file a post-general election report, due by December 8. (See reporting requirements above.)

Year-End Report: All Filers

All registered committees must file a year-end report, regardless of whether they were active in 1988 elections. Due January 31, 1989, the report must cover all activity from the close of books of the last report through December 31, 1988.

LOOKING AHEAD: CHANGE IN FILING FREQUENCY

PACs and party committees that plan to change their reporting schedule in 1989 (e.g., from monthly to semiannually) must notify the Commission by submitting a letter. A committee may not change its filing frequency more than once a year. 11 CFR 104.5(c).

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

1. 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.

The Record is published by the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Commissioners are: Thomas J. Josefiak, Chairman; Danny L. McDonald, Vice Chairman; Joan Aikens; Lee Ann Elliott; John Warren McGarry; Scott E. Thomas; Walter J. Stewart, Secretary of the Senate, Ex Officio; Donald K. Anderson, Clerk of the House of Representatives, Ex Officio. For more information, call 202/376-3120 or toll-free 800/424-9530. (TDD For Hearing Impaired 202/376-3136)

2. 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, Senate Hart Office Building, Room 232, Washington, D.C. 20510. 11 CFR 104.4(c)(2) and 105.2.
3. 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

1. 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.
2. The principal campaign committees of Presidential candidates must file copies of reports and statements with the Secretary of State or the appropriate elections official of the state in which the committee makes campaign expenditures. These reports must contain all financial transactions which apply to that state during the reporting period covered. 11 CFR 108.2.
3. 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.

HOW TO OBTAIN MORE INFORMATION

The Commission regularly mails reporting forms and additional information to registered committees. Instructions and forms for post-election reports were included in pre-election reporting packets mailed out in early October 1988.

Questions and requests for additional forms should be addressed to Information Services, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463; or call 202/376-3120 or toll free 800/424-9530.

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
1988-46	PAC solicitation of management of corporation, subsidiary and licensees of subsidiary; payroll deduction. (Date made public: October 25, 1988; Length: 1 page, plus 29-page supplement)
1988-47	Publisher's offer of 2,000 free political magazines to House campaign. (Date made public: October 27, 1988; Length: 1 page, plus 132-page supplement)
1988-48	PAC's plan to match donors' contributions with donations to charities. (Date made public: November 1, 1988; Length: 2 pages, plus 11-page supplement)
1988-49	Status of law partners as government contractors for purposes of PAC solicitations. (Date made public: November 8, 1988; Length: 3 pages)

ADVISORY OPINIONS: SUMMARIES

AO 1988-33: State's Distribution of Ballot Qualifying Fees To State Party's Federal Account

The Republican Party of Florida (the state party committee) may deposit in its federal account and use for federal elections its share of ballot access fees paid by federal candidates. The fees, originally paid by candidates to Florida's Department of State, are partially remitted by the Department of State to eligible parties.

The Commission also considered, but failed to approve, several alternative approaches to the state party committee's acceptance of remitted ballot access fees paid by nonfederal candidates from possibly impermissible sources.

When federal candidates pay ballot access fees, they must use funds that are permissible under the Act. By contrast, nonfederal candidates may use impermissible funds to pay their ballot access fees. Under Florida law, they may

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use: (1) contributions from sources prohibited under the Act (i.e., corporations and labor organizations) and (2) contributions in excess of the Act's contribution limits.¹

Under the Act and FEC regulations, federal political committees may not accept and use impermissible funds for federal elections. Funds may not be accepted either directly or indirectly from prohibited sources. 2 U.S.C. §§441b(a) and 441b(b)(2). Furthermore, to ensure that impermissible funds are not used in connection with federal elections, the Act and regulations impose certain affirmative duties on political committees active in federal elections. For example, a committee that finances both federal and nonfederal election activities, such as the state party committee, must adopt one of two accounting methods that ensure that permissible funds are used exclusively in federal election activities. See 11 CFR 102.5(a). The Florida party committee chose the alternative of establishing separate accounts for its federal and nonfederal activities.

Thus, the state party committee's acceptance and use of state funds consisting of federal candidates' ballot access fees complies with the Act's requirements concerning the acceptance, deposit and use of permissible funds for federal election activities.

The Commission considered, but failed to approve, several alternative approaches that would have allowed the state party to deposit some portion of nonfederal candidates' ballot access fees in the party's federal account. (Date issued: October 11, 1988; Length: 7 pages)

AO 1988-38: Eligibility of Commodity Exchange's Membership Classes for Partisan Communications/PAC Solicitations

The Chicago Board of Trade (CBOT), an incorporated membership organization that operates as a federally-licensed commodity exchange, may mail partisan communications to, and solicit contributions from, four types of CBOT members. (See below.) These members are sufficiently related to CBOT to be considered "members" under the Federal Election Campaign Act and thus are eligible to receive the organization's partisan communications and PAC solicitations. By contrast, four other types of CBOT members are not eligible to receive the organization's partisan communications and PAC solicitations because they do not qualify as CBOT members. (See below.)

Under the Act and FEC regulations, an incorporated membership organization may make par-

tisan communications to, and solicit contributions from, those individuals and unincorporated organizations that qualify as its members. Commission regulations define a membership organization's members as "all persons who are currently satisfying the requirements for membership" in the organization. 11 CFR 114.1(e). To qualify as a member, an individual must have "some relatively enduring and independently significant financial or organizational attachment" to the membership organization. See FEC v. National Right to Work Committee 459 U.S. 197, 202, 103 S.Ct. 552(1982). See also AOs 1984-22, 1984-33, 1985-11 and 1987-31.

Four of CBOT's membership classes meet the membership standard because they:

- o Are responsible for paying membership dues;
- o Have certain rights in governing the organization (e.g., the right to elect CBOT officers and amend CBOT rules); and
- o Hold only one membership per member.

As CBOT members, they are eligible to receive partisan communications and contribution solicitations from AMPAC/CBOT, CBOT's separate segregated fund. These members include the following categories:

- o CBOT's **full and associate members** who are individuals or noncorporate entities;
- o CBOT's full and associate **member-lessors** (i.e., members who delegate their memberships to others) who are individuals or noncorporate entities;
- o **Individual members** who have registered with CBOT for the benefit of their respective firms but who nevertheless retain all membership rights and privileges under their names; and
- o **Unincorporated firms** with full or associate memberships. The firm, not an individual, has a proprietary interest in the membership and retains rights and responsibilities.

Those who do not qualify as CBOT members and are, thus, ineligible to receive CBOT's partisan communications and PAC solicitations include the following categories:

- o CBOT's full and associate **member delegates** (i.e., individuals who have leased memberships from full or associate members). (See above.) Under CBOT rules, these individuals do not obtain the membership rights and privileges of those from whom they lease memberships. Rather, the lessors retain substantial membership rights and obligations, including: (1) the right to vote for CBOT officers and (2) liability, with delegates, for dues payments.
- o **Individuals who represent firms** that have vested memberships in CBOT. In contrast to individuals who register with CBOT for the benefit of their firms (see above), these individuals retain rights and responsibilities only at the sufferance of the firm. Their firms may transfer the membership and have proprietary interest in the memberships.

¹Florida election laws impose a \$3,000 limit on a donor's contribution to a statewide candidate.

AO 1988-39: Ineligibility of Individuals with Leased Memberships for Solicitations by Exchange PAC

The Commodities Futures Political Fund (CFPF), the separate segregated fund of the Chicago Mercantile Exchange (CME), an incorporated membership organization that operates as an exchange for futures trading, may not solicit individuals who have temporarily leased one of three types of CME memberships. These lessees are not sufficiently related to CME to be considered members, under the Federal Election Campaign Act (Act), and thus cannot be solicited. CFPR may, however, solicit contributions from these individuals and unincorporated organizations that qualify as CBOT members. 2 U.S.C. §441b(b)(4)(C).

Commission regulations define a membership organization's members as "all persons who are currently satisfying the requirements for membership in the organization." 11 CFR 114.1(e). To qualify as a member, an individual must have "some relatively enduring and independently significant financial or organizational attachment" to the membership organization. See FEC v. National Right to Work Committee, 459 U.S. 197, 202, 103 S. Ct. 552(1982). In determining if a class of members is sufficiently related to the organization to qualify for PAC solicitations, the Commission has considered whether: (1) the member has some right to govern the organization, (2) the member pays regular dues and (3) each membership in the organization is held by only one member. See also AOs 1984-22, 1984-33, 1985-11 and 1987-31.

Individuals who temporarily lease a CME membership do not meet this standard and thus are ineligible for CFPF solicitations. Under CME rules, lessees do not have the right to vote in CME elections or on CME referenda; these rights are retained by CME members who lease their memberships (i.e., lessors). Further, even though a member may have an agreement with a lessee under which the lessee pays the member's CME dues, the member is still billed for these dues and is responsible for paying them. Finally, the lessor retains proprietary rights over his or her membership; the lessee's temporary "membership" is subject to the lessor's desire to maintain the lease arrangement.

The Commission's conclusion in this opinion is analogous to its conclusion in AO 1987-31. (Date issued: October 11, 1988; Length: 5 pages)

o **Individuals with CBOT membership interests.** Their participation in CBOT's governance is minimal. They may not vote for CBOT directors, principal officers or rules amendments.

o **Incorporated entities** that otherwise would qualify as full or associate members.

(Date issued: October 11, 1988; Length: 8 pages)

AO 1988-41: Retiring Congressman's Disposal and Reporting of 1988 Campaign Funds

On July 18, 1988, Congressman Samuel S. Stratton announced that he would not seek reelection for a 16th term but would instead retire in January 1989. Prior to his retirement announcement, Congressman Stratton held two fundraisers (in April 1987 and May 1988) to support his 1988 reelection effort. Any undesignated contributions received by his principal campaign committee, Stratton for Congress Committee (the Committee), before July 18, 1988, are considered contributions to his 1988 primary campaign and count against that limit. 11 CFR 110.1(b)(2)(ii) and 110.2(b)(2)(ii); AOs 1980-30 and 1986-12. These contributions, along with any contributions designated for the 1988 primary, do not have to be returned to the donors. Instead, they may be used for a variety of lawful purposes. (See below.)

On the other hand, contributions received during 1987-88 that were designated for Congressman Stratton's 1988 general election must be returned (or refunded) to the donors. See 11 CFR 102.9(e)(2), 110.1(b)(3)(i) and 110.2(b)(3)(i); AOs 1985-41 and 1986-12.

The Committee must report all disbursements of its 1988 campaign funds. (See procedures below.) Within 30 days of receiving this advisory opinion, the Committee must also file an amended report on which it discloses as "primary contributions" all those undesignated contributions received before July 18, 1988, for Congressman Stratton's 1988 reelection effort. 11 CFR 102.9(e). On previous reports, the Committee had mistakenly reported these contributions as "general contributions."

Primary Campaign Receipts

The Committee may use funds raised for the primary campaign for any lawful expenditures related to 1988 primary election activity.

The Committee may also use the funds to make contributions to other 1988 candidates. However, its contributions to federal candidates are subject to the election law's \$1,000 per candidate, per election limit. The Committee could also become a multicandidate committee with a contribution limit of \$5,000 per candidate, per election. 2 U.S.C. §441a(a)(4). If the Committee chose this route, it would have to amend its Statement of Organization, identifying itself as a nonconnected political committee. See AOs 1985-30 and 1987-11.

Finally, the Committee may use any remaining excess campaign funds¹ of the 1988 primary campaign to pay expenses that Congressman Stratton incurs in connection with his remaining duties as a federal officeholder. 2 U.S.C. §439a. Congressman Stratton may also use excess campaign funds for personal purposes. Although the

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election law prohibits candidates from converting excess campaign funds to personal use, this prohibition does not apply to individuals, such as Congressman Stratton, who were Members of Congress on January 8, 1980. Excess campaign funds used for personal purposes may, however, be subject to state laws.

Reporting Procedures

The Committee must report disbursements of its 1988 campaign funds as follows:

- o Refunded contributions must be reported as "offsets."
- o Payments for Congressman Stratton's federal officeholder expenses must be reported as "other disbursements."
- o Contributions to other candidates and committees must also be reported as "other disbursements."

See generally 11 CFR 104.3(b). (Date issued: October 18, 1988; Length: 4 pages)

AO 1988-42: Official Name for PAC Jointly Established by Two Corporations

Two affiliated corporations may not name their jointly established separate segregated fund "Atlantic Marine and Atlantic Dry Dock PAC." This proposed name fails to include the full name of each corporation.

Under the election law and FEC regulations, the official name of a separate segregated fund must include the full name of its sponsoring corporation(s). 2 U.S.C. §432(e)(5); 11 CFR 102.14(c). Thus, to comply with this requirement, the corporations must change the name of their joint PAC to "Atlantic Marine, Inc., and Atlantic Dry Dock Corp. PAC." (Date issued: October 13, 1988; Length: 2 pages)

AO 1988-43: National Organization Not Responsible for State Members' PACs

The American Society of Anesthesiologists (ASA), a national membership organization for anesthesiologists and interested physicians, has no obligations under the election law and FEC regulations with respect to the activities of separate segregated funds (i.e., PACs) established by two of ASA's "state component societies." (These state members are chartered by the national organization's Board of Directors.)

Excess campaign funds are "amounts received by a candidate as contributions which he or she determines are in excess of any amount necessary to defray his or her campaign expenses." 11 CFR 113.1(e)

Since ASA is not a PAC and has not established a PAC, the organization has no registration or reporting requirements. Nor does the election law impose any duty on ASA to review the PAC treasurers' compliance efforts. The treasurers of the state component societies' PACs—not ASA personnel—are responsible for ensuring that their respective PACs comply with the election law and FEC regulations.

The election law and FEC rules specify that a PAC's treasurer is responsible for:

- o Ensuring that the PAC registers and files required reports and statements;
- o Keeping the PAC's records of financial activity; and
- o Ensuring that the PAC accepts only those funds that comply with the election law's contribution limits and prohibitions.

The Commission noted that this opinion does not address the issue of whether the two PACs established by ASA's state components are "affiliated" under the election law. (Date issued: October 20, 1988; Length: 3 pages)

CHANGE OF ADDRESS

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

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

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



COMMISSION EXPANDS COMPUTER ACCESS TO CAMPAIGN FINANCE DATA

The Commission continues to broaden public access to federal campaign finance information centralized in the agency's Public Information Office in Washington, D.C. The public now has direct computer access to this FEC information through the FEC-State Access Program and the Direct Access Program (DAP). These programs are described below.

FEC-State Access Program

The Commission and 15 state election offices cooperate in making campaign finance information available to the public at computer terminals located in these state offices.

The state offices follow basic disclosure procedures established by the Commission. However, each state office sets its own standards concerning the amount and types of campaign finance information the office makes available.

The FEC makes available the following types of data for use by the state offices:

- o Indexes providing descriptive information on all registered political committees, such as their sponsoring organization, frequency of filing reports and multicandidate committee status;
- o Indexes showing the total receipts and disbursements of committees;
- o Listings of all PAC contributions to federal candidates;
- o An index listing individuals who have contributed \$500 or more to federal candidates or committees; and
- o A summary sheet on each candidate or PAC showing total receipts and expenditures, cash on hand and debts owed over a two-year election cycle.

States currently participating in the FEC-State Access Program are: Arizona, Colorado, Connecticut, Georgia, Illinois, Iowa, Massachusetts, Michigan, New Jersey, New Mexico, Ohio, Tennessee, Vermont, Washington and Wisconsin.

Addresses for the participating states' election offices are listed below. A brochure on the program is also available by calling the Information Services Division on its toll-free number, 800/424-9530.

Direct Access Program

Anyone living in the United States may establish a direct tie with the FEC's computer base through the agency's Direct Access Program (DAP). Subscribers have access to information contained in formatted indexes as well as unformatted data. This information is available 24 hours a day, seven days a week, for a fee of \$25

per hour. For a new brochure on DAP, call the Press Office, 800/424-9530.

FEC-STATE ACCESS PROGRAM PARTICIPANTS

Arizona

Office of the Secretary of State
State Capitol, West Wing, 7th Floor
1700 West Washington
Phoenix, AZ 85007
602/267-8683

Colorado

Elections Division
Office of the Secretary of State
1560 Broadway, Suite 200
Denver, CO 80202
303/866-2041

Connecticut

Office of the Secretary of State
Room 115
30 Trinity Street
Hartford, CT 06106
203/566-3059

Georgia

Elections Division
Office of the Secretary of State
State Capitol, Room 110
Atlanta, GA 30334
404/656-2871

Illinois

State Board of Elections
Suite 14-100
100 West Randolph Street
Chicago, IL 60601
312/917-6440

Iowa

Campaign Finance Disclosure Commission
507 10th Street, 7th Floor
Des Moines, IA 50309
515/281-4411

Massachusetts

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

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Michigan

Elections Division
Office of the Secretary of State
4th Floor, Mutual Building
208 N. Capitol Avenue
Lansing, MI 48918
517/373-2540

New Jersey

New Jersey Election Law
Enforcement Commission
28 West State Street, Suite 1215
Trenton, NJ 08625
609/292-8700

New Mexico

Office of the Secretary of State
Room 400
Executive-Legislative Building
Santa Fe, NM 87503
505/827-3617

Ohio

Office of the Secretary of State
30 East Broad Street, 14th Floor
Columbus, OH 43266-0418
614/466-2585

Tennessee

Elections Division
Office of the Secretary of State
James K. Polk Building, Suite 500
Nashville, TN 37219-5040
615/741-7956

Vermont

Office of the Secretary of State
Redstone Building
26 Terrace Street
Montpelier, VT 05602-2198
802/828-2363

Washington

Public Disclosure Commission
403 Evergreen Plaza, MS-FJ42
Olympia, WA 98504-3342
206/753-1111

Wisconsin

State Elections Board
132 East Wilson Street, 3rd Floor
Madison, WI 53702
608/266-8005

FEC v. ROGER LEE

On October 26, 1988, the U.S. District Court for the Central District of California entered a consent order in FEC v. Roger Lee (Civil Action No. 88-02640). The FEC filed the suit against Mr. Roger Lee, President and Director of the Bekins Company, alleging that Mr. Lee had violated section 441b(a) of the election law.

In his capacity as Chief Financial Officer of the Bekins Company, Mr. Lee consented to corporate reimbursements for employees who made contributions to Senator John Glenn's 1984 Presidential primary campaign.

In settlement of this litigation, Mr. Lee agreed to pay a \$5,000 civil penalty for these violations within 30 days of the court's order.

FEC v. AUGUSTINE FOR CONGRESS

On September 23, 1988, the U.S. District Court for the Eastern District of Louisiana issued a consent order and judgment in FEC v. Augustine for Congress (Civil Action No. 82-4544). The FEC had filed this complaint against Augustine for Congress (the Committee), the principal campaign committee for Israel M. Augustine's 1984 Congressional campaign, and Leon Fulton, the Committee's treasurer, in September 1987.

In the consent order, the defendants agreed that they had violated the election law by:

- o Failing either to maintain adequate records of a significant portion of the Committee's campaign contributions (i.e., 54 percent of the contributions) or to preserve records for the required three years (2 U.S.C. §§432(c)(2), (3) and (4) and 432(d));
- o Failing to identify the source of 26 itemizable contributions (2 U.S.C. §434(b)(3)(A));
- o Failing to provide adequate year-to-date totals for such itemizable contributions (11 CFR 104.3(b)(4));
- o Failing to maintain adequate records for certain campaign disbursements (2 U.S.C. §432(c)(5));
- o Failing to itemize 26 campaign disbursements (2 U.S.C. §434(b)(5)(A));
- o Failing to file the Committee's 1985 mid-year report and its 1985 and 1986 year-end reports (2 U.S.C. §§434(a)(2)(A)(iii) and 434(a)(2)(B)(i) and (ii)); and
- o Understating the amount of receipts, disbursements and cash on hand disclosed on Committee reports (2 U.S.C. §§434(b)(1),(2) and (4)).

Defendants also agreed that they had violated sections 432(c)(5) and (h)(1) of the election law by failing to:

- o Deposit receipts (amounting to \$5,000) in the

Committee's campaign account;

- o Use checks drawn on the account for disbursements made from these funds; and
- o Document these disbursements.

The court therefore ordered the defendants to:

- o Pay a \$20,000 civil penalty in conformance with an installment plan contained in the court's order; and
- o File all the Committee's over-due reports within 15 days of the court's order.

Finally, the court permanently enjoined defendants from future violations of the election law.

FEC v. THORNTON TOWNSHIP REGULAR DEMOCRATIC ORGANIZATION

On September 19, 1988, the U.S. District Court for the Northern District of Illinois issued a final consent order and judgment in a suit the FEC had filed in July 1988 against the Thornton Township Regular Democratic Organization (TTRDO) and its treasurer.

In its suit, the FEC claimed that defendants violated the election law when they sponsored a direct mail solicitation to approximately 18,000 registered Democratic voters at a cost of approximately \$4,371. In the consent order, the district court decreed that TTRDO violated the election law by:

- o Failing to register and report with the FEC as a political committee when its costs for the direct mail solicitation exceeded \$1,000 (2 U.S.C. §§433(a) and 434); and
- o Failing to include on the solicitation a disclaimer notice stating that TTRDO had sponsored the solicitation and that the solicitation was not authorized by any candidate's campaign committee. (2 U.S.C. §441d(a)(3)).

The district court further ordered defendants to pay a \$2,000 civil penalty within 30 days of the court's order.



MUR 2269: Corporate Press Releases Constitute Expenditures

This MUR, resolved through conciliation, involved a nonprofit, incorporated membership organization (the corporation) and its issuance of press releases that identified and praised federal candidates who took a pledge not to raise taxes.

Complaint

A national party committee (the party) alleged that the corporation had contacted all candidates for election or re-election to the U.S. Senate or U.S. House of Representatives in 1986, and had asked them to sign a card promising to oppose any effort to increase marginal tax rates above 15-28 percent for individuals and 34 percent for businesses and to oppose any reduction or elimination of tax deductions or credits unless matched by offsetting reductions in tax rates. According to the complaint, the pledge campaign was used to support another party's candidates for Congress and was undertaken in coordination and consultation with the other party's national campaign committees.

General Counsel's Report

The respondent asserted that the pledge campaign did not involve direct communications with the general public but relied instead on press releases. There was no advertising, distribution of brochures to the public, direct mail or similar communications. Lastly, respondents denied coordinating the pledge campaign with any national party committee.

Because the corporation's press releases identified candidates for Congress, referred to the upcoming election, praised the candidate(s) named and endorsed what the candidate(s) would do if elected, the General Counsel concluded that the communications were in connection with federal elections. Moreover, payments for the communications were made in coordination and consultation with the candidates in that the respondent had asked the pledge-taking candidates to identify media outlets in their districts and had sent the press releases to these outlets; and, further, in that the respondent had asked the pledge-taking candidates to hold press conferences simultaneously with the respondent's press conference, announcing the names of these candidates.

The Act, however, states that it is unlawful for any corporation to make a contribution or expenditure in connection with any federal election. 2 U.S.C. §441b(a). Since the corporation

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had spent treasury funds in connection with federal elections, the General Counsel believed it had violated section 441b(a).

Commission Determination

Prior to considering whether there was "probable cause to believe" the Act had been violated, the Commission entered into a conciliation agreement with the respondent. It was agreed that the respondent had made prohibited corporate expenditures in connection with federal elections. The respondent agreed to pay a \$1,000 civil penalty.

REPRINTS OF RECORD ARTICLES AVAILABLE

Callers inquiring about different aspects of the law often ask whether the Commission has materials on their topic of interest. In response to these requests, many previously published 800 Line articles have been transformed into handouts for quick and easy reference. Periodically appearing in the Record, the 800 Line articles answer frequently asked questions about specialized topics relating to election law, such as fundraisers or transfers of funds.

Other handouts on specific topics, not previously published, are available as well.

For convenience, handouts have been grouped in the list below according to their intended audience. For each handout taken from the Record, a parenthetical reference indicates the month and year when the article was originally published.

Readers will find the handouts to be a valuable resource. The Commission provides them free of charge. To order, call the FEC's Information Services Division at 800/424-9530 or 202/376-3120.

For All Committees

- o Computerized Format for Reporting (11:80)
- o Contribution Limits
- o Joint Fundraising
- o Overall Annual Limit on Contributions for Individuals (7:83)
- o Public Records Fee Schedule
- o State Filing Offices
- o 1988 Filing Dates

For Authorized Candidate Committees

- o Concert Fundraisers (12:82)
- o Disposal of Campaign Property (1:83)
- o Presidential and Congressional Primary Dates (1:88)

- o Termination Procedures/Winding Down the Campaign
- o Transfer of Candidate Funds to Federal Committee (1:86)

For Unauthorized Committees

- o Delegates/Delegate Committees (11:87)
- o Partnerships (6:83)
- o Reporting Internal Communications by Corporations, Labor Organizations and other Membership Organizations
- o Single Candidate Committees (10:87)
- o SSF & Nonconnected Committees (10:82)

For Teachers, Students and Researchers

- o Dear Educator Letter (Describes FEC resources and services available to educators)
- o Dear Librarian Letter (Describes available research materials and FEC resources)
- o Educational Materials and Services (5:84)
- o Legislative History Reference Information
- o Presidential Election Campaign Fund Chart

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