

RECORD

November 1990

999 E Street NW

Washington DC

20463

Volume 16, Number 11

REPORTS

REPORTING REMINDER: DECEMBER REPORTS

Post-General Report: PACs, Party Committees, Committees of General Election Candidates

The following committees must file post-general election reports that are due on December 6, 1990:

- o All PACs and party committees, regardless of their filing status (monthly or quarterly); and
- o All authorized committees of House and Senate candidates who ran in the November 6 general election.

The post-general election report covers the period from the closing date of the committee's last report through November 26, 1990.

Reports sent by registered and certified mail must be postmarked no later than December 6. Reports sent by other means must be received in the federal and state filing offices by December 6. For information on where to file, see the instructions on the back of Form 3 or 3X.

December Monthly: Presidential Committees

Committees of Presidential candidates that are filing on a monthly basis must file a report covering November 1990 activity. The report is due on December 20, 1990, unless sent by registered or certified mail, in which case it must be postmarked no later than December 20.

OCTOBER ISSUE

Two different versions of the October 1990 Record were printed and mailed. Because of a printer's error, the first version did not contain the charts that should have appeared on page 14. The printer agreed to print and mail, at his own expense, the corrected version.

REGULATIONS

FEC ANNOUNCES EFFECTIVE DATES FOR THREE SETS OF RULES

On October 3, 1990, the Commission published Federal Register notices announcing the effective dates for:

- o Revised allocation rules and new reporting forms;
- o Revised debt settlement rules and new reporting forms; and
- o New rules on computerized records maintained by publicly funded Presidential campaigns.

Allocation Rules and Forms

January 1, 1991, is the effective date for the revised rules on the allocation of expenses that jointly benefit federal and

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TABLE OF CONTENTS

- 1 **REPORTING:** December Reports
- REGULATIONS**
 - 1 Effective Dates for Three Sets of Rules
 - 2 Requests for Comments on MCFL Rulemaking
- 4 **ADVISORY OPINIONS**
- 6 **STATISTICS:** 18-Month PAC Activity
- 8 **800 LINE:** Earmarked Contributions
- COURT CASES**
 - 9 FEC v. Dramesi for Congress
 - 10 New Litigation
- PUBLICATIONS**
 - 10 New Edition of Court Case Abstracts
 - 11 Campaign Guide Order Form
- 11 **FEDERAL REGISTER NOTICES**
- 12 **COMPLIANCE:** MURs Released to the Public
- 13 **INDEX**

nonfederal candidates and elections. The new reporting forms that implement the rules will also become effective on that date. 55 Fed. Reg. 40377. Although the Commission could have prescribed the new rules and forms earlier, the agency delayed the effective date in order to give committees time to develop procedures necessary to comply with the new rules. The new rules and forms will soon be mailed to all registered committees.

The final rules at 11 CFR Parts 102, 104 and 106 were published in the June 26, 1990, Federal Register along with the explanation and justification (55 Fed. Reg. 26058). A summary of the revised allocation rules appeared in the September 1990 Record.

Debt Settlement Rules and Forms

Both the debt settlement rules and the reporting forms that implement the rules became effective October 3, 1990. 55 Fed. Reg. 40376. All debt settlement requests received after the effective date must comply with the new rules and must be submitted on the new forms.

The Commission published the final rules and their explanation and justification in the June 27, 1990, Federal Register (55 Fed. Reg. 26378). The new rules at 11 CFR Part 116 replace previous section 114.10; sections 100.7, 104.3 and 104.11 were also revised to reflect the new provisions. A summary of the debt settlement rules appeared in the September 1990 Record.

Computerized Records of Presidential Campaigns

The new rules on the production of computerized records maintained by publicly funded Presidential candidates became effective October 3, 1990. 55 Fed. Reg. 40377. The rules implement the new technical standards set forth in the FEC document "Computerized Magnetic Media Requirements for Title 26 Candidates/

Committees Receiving Federal Funding." These technical standards also became effective on October 3.

The final rules and their explanation and justification were published in the June 27, 1990, Federal Register (55 Fed. Reg. 26392). A brief summary of the rules appeared in the August 1990 Record.

ADDITIONAL REQUEST FOR COMMENTS ON MCFL RULEMAKING

On October 3, 1990, the Commission published a Notice in the Federal Register (55 Fed. Reg. 40397) seeking further comments on issues raised in the Supreme Court case FEC v. Massachusetts Citizens for Life (MCFL), 479 U.S. 238 (1986). The Commission seeks comments in light of several recent court decisions, including Austin v. Michigan Chamber of Commerce, ___ U.S. ___, 110 S.Ct. 1391 (1990). Comments are due by November 2, 1990, and should be addressed to Susan Propper, Assistant General Counsel, 999 E Street, NW, Washington, DC 20463.

Background

MCFL Decision. Section 441b of the Federal Election Campaign Act bars corporations from making contributions and expenditures in connection with any federal election. In MCFL, the Supreme Court ruled that section 441b's ban on independent expenditures by a nonprofit corporation formed to promote "pro-life" causes was a violation of free speech under the First Amendment. The Court found that section 441b requirements, when applied to a small, nonprofit entity that lacked formal organization, created a disincentive for such organizations to engage in political speech. The Court delineated three essential features for determining which nonprofit corporations would be exempt from section 441b's restriction on corporate spending. The Court also focused on what

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Lee Ann Elliott, Chairman
John Warren McGarry, Vice Chairman
Joan D. Aikens
Thomas J. Josefiak
Danny L. McDonald
Scott E. Thomas

Walter J. Stewart, Secretary of the Senate,
Ex Officio Commissioner
Donnald K. Anderson, Clerk of the House of
Representatives, Ex Officio Commissioner

qualifies as an expenditure under section 441b, indicating that it would consider any communication that expressly advocates the election or defeat of a candidate as an expenditure subject to section 441b's prohibition.

FEC Proposed Rulemaking. In 1987, the Commission published a Notice inviting comments on a rulemaking petition filed by the National Right to Work Committee (NRWC). The NRWC wanted the Commission to revise its regulations to incorporate the "express advocacy" test set forth in MCFL as the standard for judging expenditures. 52 Fed. Reg. 16275, May 4, 1987. In 1988, the Commission published an Advance Notice of Proposed Rulemaking that sought comments not only on the express advocacy issue but also on other questions raised by the MCFL decision. 53 Fed. Reg. 416, January 7, 1988. The Commission also held a hearing on November 16, 1988, at which two witnesses testified concerning these issues.

Austin Decision. On March 27, 1990, the Supreme Court issued its decision in Austin v. Michigan Chamber of Commerce. In upholding a Michigan statute containing prohibitions similar to section 441b, the Court emphasized the limited nature of the MCFL exception and further expounded on the characteristics of an MCFL-type corporation. The Commission now seeks new comments to help determine what changes in its regulations are warranted based on MCFL, Austin and recent judicial decisions.

MCFL Criteria (for 441b Exemption) Discussed in Austin

In Austin, the Court examined the Michigan Chamber of Commerce under the three essential features described in MCFL and found that the Chamber failed to qualify for exempt status.

First Feature. Under the first essential feature, a corporation must be formed for the express purpose of promoting political ideas and cannot engage in business activities. The Chamber failed to meet this requirement because it was not formed expressly to promote political ideas and, furthermore, because it conducted a variety of nonpolitical activities.

It appears from the Court's decision in Austin that a corporation may be considered to be engaging in business activities even if its main purpose is not profit making. The Court pointed to the Chamber's educational activities as among those that fell outside of the requirement. The Commission welcomes comments on what other activities

might qualify as business activities, thus placing a corporation outside of the MCFL exemption.

Second Feature. The second MCFL requirement is that the corporation must not have shareholders or other persons that would have a claim on its assets or earnings. "This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity." Id., at 1399, quoting MCFL at 264. The Chamber failed to meet this requirement because, as the Court pointed out, its members might be reluctant to withdraw on political grounds because of the loss of economic benefit derived from Chamber membership, such as business contacts and a variety of educational and other non-political programs.

Seeking comments on this point, the Commission wants to know what kinds of economic benefits a person might derive from a nonprofit organization that would create a disincentive to disassociation. For example, some organizations provide their members with credit cards or insurance at favorable rates. Might the loss of a favorable rate qualify as a disincentive to disassociation sufficient to place the nonprofit corporation outside the Court's MCFL exemption?

Third Feature. The final feature of an MCFL-type corporation is that it must not be established by a business corporation and must have a policy against accepting contributions from such entities. This precludes a nonprofit organization from acting as a conduit for a corporation's money in the "political marketplace." Id., at 1400, quoting MCFL at 264. The absence of any Chamber policy against accepting contributions from business corporations placed the organization outside the MCFL exemption. The Commission invites comments on this point as well.

Express Advocacy Issues

On June 29, 1990, the U.S. District Court for the District of Maine employed the express advocacy test in evaluating the Commission's voter guide regulations at 11 CFR 114.4(b)(5)(i).¹ The court con-

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¹The court also determined that the Maine Right to Life Committee did not qualify for the MCFL exemption because it lacked a policy against receiving corporate contributions.

cluded that "the regulation, as currently promulgated with its focus on issue advocacy [rather than express advocacy], is contrary to the statute as the United States Supreme Court has interpreted it...." *Faucher v. FEC*, No. 90-0112-B, slip op. at 10 (D.Me. June 29, 1990). The Commission has appealed this portion of the opinion.

In another case, decided on May 11, 1989, the U.S. District Court for the District of Columbia applied an express advocacy standard to determine whether section 441b permitted an incorporated membership organization to pay for letters directed to the general public that solicited new members. *FEC v. National Organization for Women (NOW)*, 713 F. Supp. 428 (D.D.C. 1989). The court concluded that the corporation had not violated section 441b because the letters did not go beyond the discussion of issues to express advocacy. The Commission has also filed an appeal in this case.

The Commission invites comment on the issues raised by these decisions, although future decisions in these cases and other pending litigation may affect the resolution of the issues.

ADVISORY OPINIONS

ADVISORY OPINION REQUESTS

Recent requests for advisory opinions (AORs) are listed below. The full text of each AOR is available for public review and comment in the FEC's Public Records Office.

AOR 1990-22

Use of payroll deduction by health insurance corporation to solicit executive and administrative personnel of member "Plans." (Date Made Public: September 19, 1990; Length: 11 pages plus 272 pages of attachments)

AOR 1990-23

Principal campaign committee's establishment of separate account for reapportionment-related activity. (Date Made Public: September 29, 1990; Length: 5 pages)

AOR 1990-24

Principal campaign committee's reimbursement to candidate's wife of European travel expenses. (Date Made Public: October 10, 1990; Length: 2 pages)

AO 1990-10: Affiliation Between PACs of Corporate Parent and Bankrupt Subsidiary

The separate segregated funds of Texas Air Corporation and its wholly owned subsidiary, Eastern Airlines Inc., remain affiliated even though a bankruptcy court appointed a trustee to manage Eastern Airlines.

In April 1990, the U.S. Bankruptcy Court for the Southern District of New York issued a court order approving the appointment of a trustee and, as asserted by Texas Air, "prohibit[ing] Texas Air from any further involvement in management and decisionmaking for Eastern." Texas Air stated that a possible outcome of the reorganization will be the substantial reduction or elimination of Texas Air's stock ownership in Eastern.

Under the Federal Election Campaign Act and Commission regulations, committees established by a parent corporation and its subsidiaries are affiliated *per se* (and thus must operate under the same contribution limits). 2 U.S.C. §441a(a)(5); 11 CFR 100.5(g)(2), 110.3(a)(1) and 110.3(a)(1)(ii). Therefore, until the parent/subsidiary relationship between Texas Air and Eastern is legally severed, their PACs remain affiliated.

Chairman Lee Ann Elliott filed a dissenting opinion. (Date issued: October 5, 1990; Length: 6 pages, including dissent)

AO 1990-17: Contributions to 1988 Campaign to Defray FECA-Related Legal Costs

The Conrad Burns/U.S. Senate committee, now redesignated for Senator Burns' 1994 re-election campaign, may raise contributions designated for the 1988 general election in order to pay for legal expenses related to an FEC compliance matter emanating from the 1988 election.

Contributions to defray such expenses are subject to the contribution limits and prohibitions of the Federal Election Campaign Act. AO 1981-16; see also AO 1989-10. (Although the donation of legal services to ensure a committee's compliance with the Act is exempt from the definition of contribution--as long as the person rendering the services is paid by his or her regular employer--the Act and FEC regulations do not exempt the donation of money to defray the costs of such services. 2 U.S.C. §431(B)(B)(ix); 11 CFR 100.7(b)(14); AOs 1981-16 and 1977-5.)

An authorized committee may accept contributions made after the date of an election to retire the campaign's net debts outstanding. 11 CFR 110.1(b)(3)(i). The net debts outstanding figure, initially calculated as of the date of the election, must be adjusted as the committee's financial position changes. Contributions accepted after the election may not exceed the adjusted amount of net debts outstanding on the date the contributions are received. 11 CFR 110.1(b)(3) (ii) and (iii); Explanation and Justification of 11 CFR 110.1(b)(3)(ii) and (iii), 52 Fed. Reg. 762 (January 9, 1987). Based on the Burns committee reports, it appears that at the time of the 1988 election, the committee did not have enough cash on hand and receivables to pay its debts, let alone the now-anticipated legal costs.

The committee may receive contributions to defray the costs of legal representation in the compliance matter emanating from the 1988 election provided that the contributions:

- o Are designated in writing by the donors for the 1988 general election;
- o Do not exceed the donors' per-election contribution limits when the contributions are aggregated with other contributions made by the same donors for the 1988 general election; and
- o Do not exceed the amount needed to defray the legal costs, since the committee has paid all other 1988 debts. 11 CFR 110.1(b)(3) and 110.1(g).

If the committee receives contributions in excess of the legal costs, it must, within 10 days of the treasurer's receipt, either return or deposit the contributions. If a contribution is deposited, the treasurer must seek a written redesignation from the contributor, or a reattribution in combination with a redesignation, in accordance with 11 CFR 110.1(b)(3)(i). (Date issued: September 21, 1990; Length: 4 pages.)

AO 1990-21: Campaign Funds Used to Pay for Travel/Subsistence Expenses of Candidate's Wife

The campaign committee of Congressman Edward Madigan may pay for travel and subsistence expenses incurred by his wife while making speeches to groups of Republican women within his district.

The Congressman's wife plans to deliver talks about a recent trip she and her husband made to Eastern Europe. Although Mrs. Madigan will neither refer to her husband's campaign nor solicit campaign contributions, the proposed speeches will nevertheless be for the purpose of influencing the Congressman's election because the speeches will be made in connection with campaign events, before a partisan audience (Republican women) within the Congressman's district. A candidate's campaign committee has wide discretion in making expenditures to influence the candidate's election. AOs 1988-13, 1987-2, 1985-42, 1981-25 and 1981-2. The Congressman's campaign committee may therefore pay for the expenses related to the speeches, including Mrs. Madigan's travel, lodging and meals, but the expenses must be reported as operating expenditures. 2 U.S.C. §434(b)(4)(A) and (b)(5)(A); 11 CFR 104.3(b)(2)(i), (b)(4)(i) and (c)(2)(i).

Should the Congressman or his wife receive reimbursements from the committee that exceed the amount of the actual expenses, the retention of such excess would result in the personal use of excess campaign funds. 2 U.S.C. §439a; 11 CFR 113.2; see also AO 1988-13. Under 2 U.S.C. §439a, Congressman Madigan is not prohibited from such personal use because he was a Member of Congress on January 8, 1980. See AOs 1988-41, 1985-42, 1984-49 and 1981-25. The Commission, however, did not rule on the application of House rules or any tax ramifications, since those issues are outside its jurisdiction. (Date Issued: October 1, 1990; Length: 3 pages)

STATISTICS

EIGHTEEN-MONTH ACTIVITY OF PACS

During the first 18 months of the 1990 election cycle (from January 1989 through June 1990), PACs contributed \$94 million to U.S. House and Senate candidates, as reported in an August 31, 1990, press release. When compared with the same 18-month period of the 1988 election cycle, PAC receipts rose 3.3 percent to \$275 million, while spending increased 8.3 percent to \$233 million.

During the 1990 cycle, PACs contributed \$79 million to incumbents, \$6.5 million to challengers and \$8.1 million to open seat candidates. Democratic candidates received \$59 million, compared with \$34 million received by Republicans.

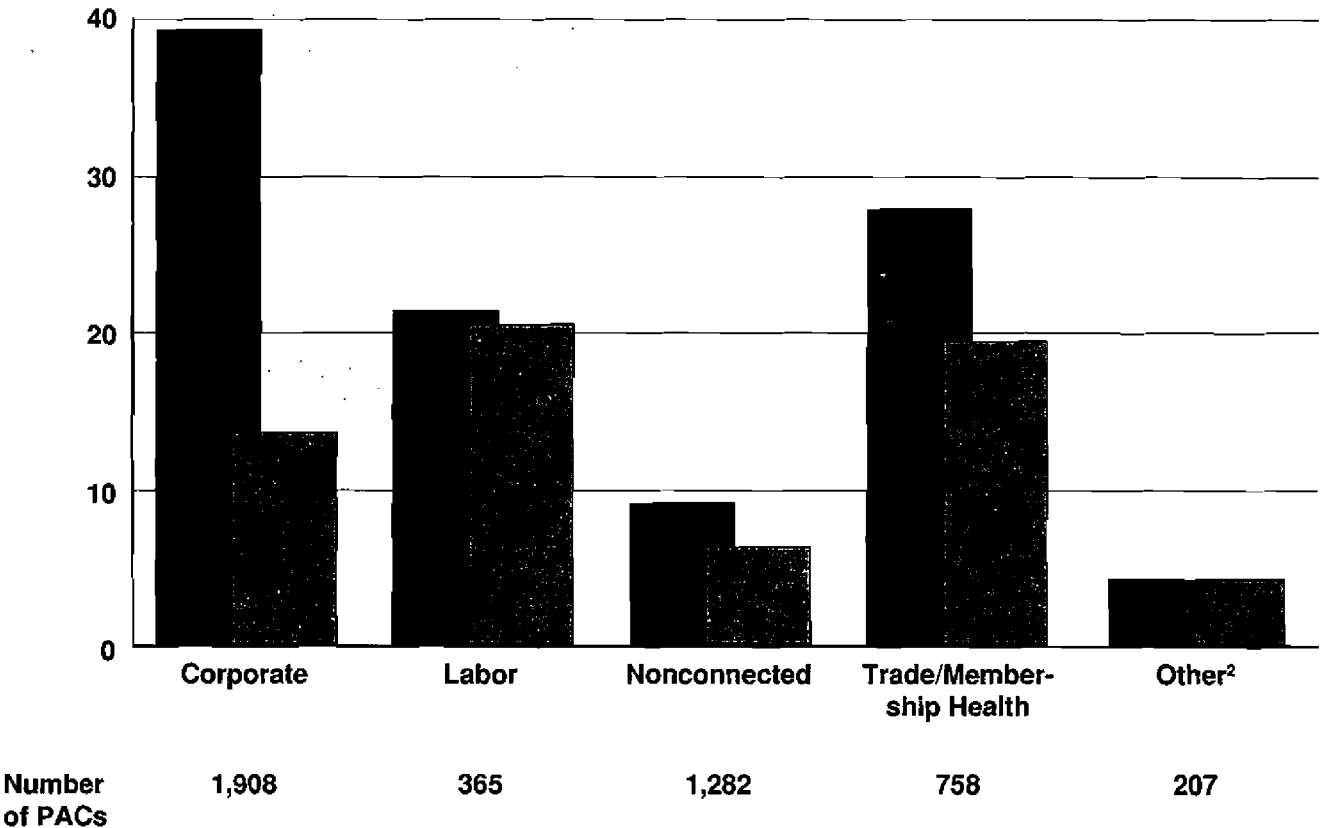
An FEC report attached to the press release compares 18-month data on PAC activity for six election cycles and also ranks the top 50 PACs in each donor category by amounts raised, spent and contributed to federal candidates as well as by cash-on-hand totals. The charts that follow compare the activity of the top 50 PACs in each category.

**Contributions to Candidates
By Top 50 PACs¹
January 1989 - June 1990**

I. Comparison of Top 50 PACs with All PACs

Millions of Dollars

■ Contributions by All PACs
■ Contributions by Top 50 PACs



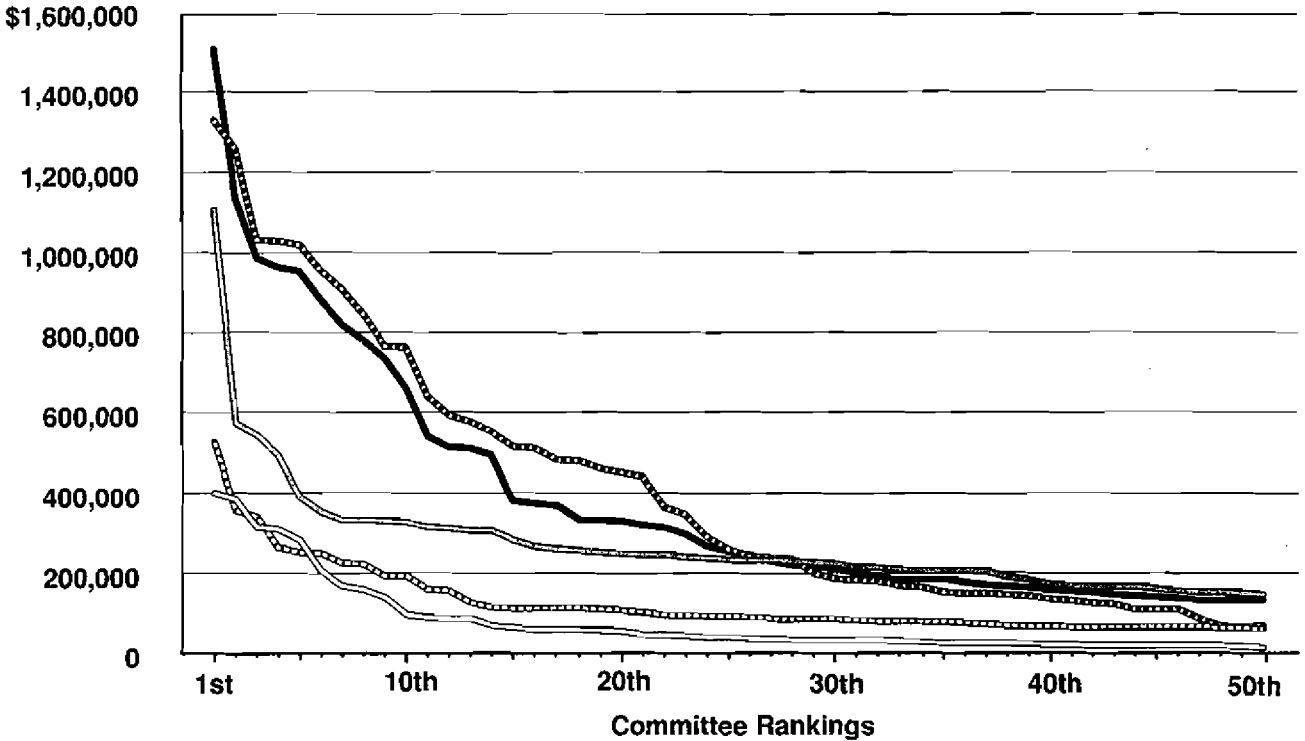
¹Ranked according to total amount contributed to candidates between January 1, 1989, and June 30, 1990.

²"Other" category consists of PACs formed by corporations without capital stock and PACs formed by cooperatives.

II. Contributions from Top 50 PACs by Amount

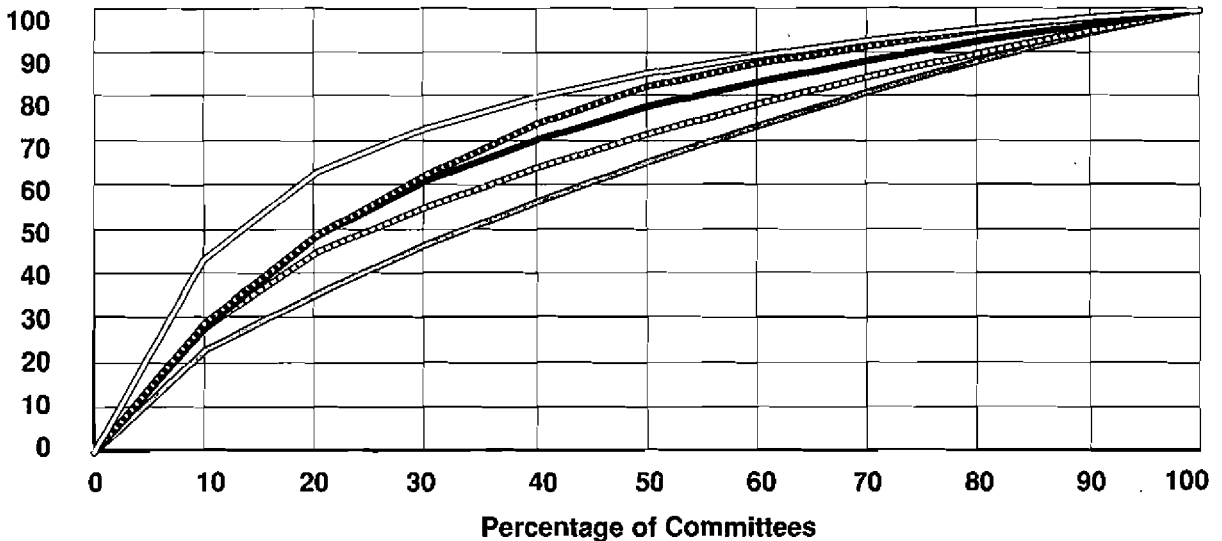
Contributions

- Corporate
- Labor
- Nonconnected
- Trade/Membership/Health
- Other¹



III. Contributions from Top 50 PACs by Percentage

Percentage of Contributions



¹“Other” category consists of PACs formed by corporations without capital stock and PACs formed by cooperatives.

800 LINE

CONTRIBUTIONS EARMARKED TO CANDIDATES

This article explains the rules governing earmarked contributions (11 CFR 110.6), including reporting requirements.

Please note that this article applies only to contributions earmarked to candidates and their authorized committees. (For information on contributions earmarked to unauthorized committees, see 11 CFR 102.8 and AOs 1983-18 and 1981-57.)

Definition of Earmarked Contribution

An earmarked contribution is one which the contributor directs (either orally or in writing) to a candidate or his or her authorized committee through an intermediary or conduit. 11 CFR 110.6(b)(1).

Definition of Conduit or Intermediary

With certain exceptions discussed below, a conduit or intermediary (the terms are synonymous) is a person who receives and forwards an earmarked contribution to a candidate or authorized committee. 11 CFR 110.6(b)(2). A conduit may be a political committee or an unregistered entity such as an individual or a partnership. In either case, the conduit must comply with the reporting requirements outlined below.

Note that acting as a conduit may affect the conduit's contribution limits, as explained below.

Who is Not Considered a Conduit. Certain entities who receive and forward contributions are not considered conduits and are not subject to the requirements of 11 CFR 110.6.

- o Certain individuals are considered campaign agents¹ rather than conduits: campaign workers--both paid staff and full-time volunteers--and individuals who are expressly authorized to engage in fundraising on behalf of the campaign and who occupy significant positions in the campaign organization. 11 CFR 110.6(b)(2)(i)(A) and (E).

¹In determining whether an individual is acting as an agent of the candidate's campaign or as an agent of another entity, one consideration would be whether the individual's solicitation expenses were reimbursed by the campaign committee or by another entity. Explanation and Justification of 11 CFR 110.6(b)(2), 54 Fed. Reg. 34106.

- o A commercial fundraising firm retained by an authorized committee is considered a campaign agent rather than a conduit. 11 CFR 110.6(b)(2)(i)(D).
- o A fundraising representative conducting joint fundraising with an authorized committee is not considered a conduit. Fundraising representatives must comply with the joint fundraising regulations (11 CFR 102.17 and 9034.8). 11 CFR 110.6(b)(2)(i)(B).
- o An affiliated committee of the authorized committee is not considered a conduit. 11 CFR 110.6(b)(2)(i)(C).

Who May Not Act as a Conduit. Persons who are prohibited from making contributions or expenditures in connection with federal elections--corporations, labor organizations, foreign nationals and federal government contractors--are not permitted to act as conduits. 11 CFR 110.6(b)(2)(ii). Similarly, an individual acting as representative of a corporation or labor organization may not act as a conduit. 11 CFR 110.6(b)(2)(i)(A) and (E). (Corporate and labor PACs--also called separate segregated funds--may, however, act as conduits.)

Earmarking and Contribution Limits

An earmarked contribution counts against the original contributor's limit for the recipient candidate. 11 CFR 110.6(a). The conduit's contribution limit is affected only if the conduit exercises direction or control over the contributor's choice of candidate. In that case, the contribution counts against the contribution limits of both the original contributor and the conduit. 11 CFR 110.6(d).

Reports by Conduits

Any conduit--whether a political committee or an unregistered entity like a partnership or an individual--must comply with the special reporting requirements for earmarked contributions regardless of whether the earmarked contribution is temporarily deposited in the conduit's bank account or passed directly to the campaign.

Report to Recipient Committee. A conduit must forward both the earmarked contribution and a report to the recipient committee within 10 days after the conduit's receipt of the contribution. 11 CFR 102.8 and 110.6(c)(1)(iii).

Report Filed with Government. A political committee conduit must disclose the required information on an earmarked con-

tribution on its next regularly scheduled report filed with the appropriate federal office (the FEC, the Clerk of the House or the Secretary of the Senate).

A conduit that is not a registered political committee must disclose the required information in a letter to the FEC within 30 days after forwarding the earmarked contribution. 11 CFR 110.6(c)(1)(i) and (ii).

Contents of Reports. The conduit's report must contain the following information on any earmarked contribution:

- o Whether the contribution was transmitted to the candidate in the form of cash, the contributor's check or the conduit's check;
- o The name and address of the contributor and, if the contribution is from an individual and exceeds \$200, the contributor's occupation and employer;
- o The candidate designated to receive the contribution;
- o The amount of the contribution and the date it was received by the conduit;
- o The date the contribution was forwarded to the candidate or the candidate's authorized committee; and
- o In those cases where the conduit exercised direction or control, an indication that the earmarked contribution counts against the conduit's limit for the recipient candidate as well as the contributor's limit. 11 CFR 110.6(c)(1)(iv) and (d)(2).

Conduit's Account. If an earmarked contribution passes through a political committee's account, the committee discloses the information listed above on Schedules A and B. If the committee forwards the contribution without depositing it, the committee discloses the information as a memo entry² on Schedules A and B. 11 CFR 110.6(c)(1)(v).

Report by Recipient Committee

The recipient candidate committee must report any conduit that forwards an aggregate of more than \$200 in earmarked contributions during a calendar year. The committee must itemize the following information on a Schedule A filed with its next regularly scheduled report:

- o The identification of the conduit (name, address and, if the conduit is an

individual, his or her occupation and employer);

- o The total amount of earmarked contributions forwarded by the conduit and their date of receipt;
- o The identification of the original contributor, if the contribution is from a political committee (regardless of amount) or if the contribution is from an individual and aggregates over \$200 (see 11 CFR 104.3(a)(3) and (4)); and
- o In cases where the conduit exercised direction or control, an indication that the earmarked contribution counts against the conduit's limit (as well as the original donor's). 11 CFR 110.6(c)(2) and (d)(2).

COURT CASES

FEC v. DRAMESI FOR CONGRESS COMMITTEE

On September 5, 1990, the U.S. District Court for the District of New Jersey granted the FEC's motion to hold the John A. Dramesi for Congress Committee and its treasurer, Russell E. Paul, in contempt of court for failing to pay civil penalties originally imposed by the court in May and July 1986. The court had ordered each defendant to pay a \$5,000 penalty for accepting an excessive contribution. (Civil Action No. 85-4039; see the July and September 1986 issues of the Record for a summary of the previous judgments.)

Although finding the Dramesi committee in contempt, the court did not take any action against it since the committee is defunct. The court, however, rejected Mr. Paul's argument that he should not be held personally liable for payment of the penalty imposed against him. The court stated that, in its previous decision in this case, "we determined that Russell E. Paul's liability was distinct from the liability of the Committee." The court went on to state that, because "political committees have a tendency to dissolve after an unsuccessful campaign," Congress chose to hold an individual--the committee treasurer--responsible for compliance with the Federal Election Campaign Act. See 2 U.S.C. §432(a) and (c). It therefore follows that "an individual will also stand responsible for his indiscretions as a treasurer."

The court, in addition to holding Mr. Paul in contempt, ordered him to pay the

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²A memo entry is supplemental information on a reporting schedule. The dollar amount in a memo entry is not incorporated into the total figure.

\$5,000 penalty within 30 days. The court imposed a \$50 per day assessment if payment is not complete within 30 days.

NEW LITIGATION

FEC v. Dennis Smith for Congress

The FEC asks the court to declare that the Dennis Smith for Congress Committee and its treasurer, Terry E. Brown, violated 2 U.S.C. §434(a)(2)(A)(iii) by failing to file the committee's October 1988 quarterly report. The FEC further asks the court to assess a civil penalty against the defendants, order them to file the report, enjoin them from further violations of §434(a)(2)(A)(iii) and award the FEC court costs.

U.S. District Court for the Western District of Missouri, Civil Action No. 90-3388-CV-S-2, August 23, 1990.

FEC v. Lawson

The FEC asks the court to declare that Mark Lawson violated 2 U.S.C. §441f by knowingly permitting his name to be used to effect a contribution in the name of another. The FEC claims that defendant Lawson received a \$1,500 bonus from his employer, Robin's Mens Store of Anderson, on April 12, 1982, in order to make a \$1,000 contribution two days later to Robin Tallon, Jr.'s House campaign committee. The FEC also asks the court to assess a civil penalty against Mr. Lawson, permanently enjoin him from further violations of §441f and award the FEC its costs in the action.

U.S. District Court for the District of South Carolina, Greenville Division, Civil Action No. 6:90-2116-0, September 6, 1990.

FEC v. West Virginia Republican State Executive Committee

The FEC asks the court to declare that the West Virginia Republican State Executive Committee violated 11 CFR 102.5(a) by making expenditures on behalf of federal candidates from its nonfederal account and violated 2 U.S.C. §434(b) by:

- o Failing to report those expenditures as allocated to federal candidates;
- o Failing to itemize transfers and contributions received from party committees and other types of political committees; and
- o Reporting as operating expenditures, rather than as expenditures made in connection with a candidate's campaign, payments for newspaper advertisements that advocated the defeat of a federal candidate.

The FEC also asks the court to assess a civil penalty against the committee; permanently enjoin it from further violations of 2 U.S.C. §434(b) and 11 CFR 102.5(a); and award the Commission court costs.

U.S. District Court for the Southern District of West Virginia, Civil Action No. 2:90-0898, September 21, 1990.

FEC v. Mann for Congress Committee (90-2419)

U.S. District Court for the District of Columbia, Civil Action No. 90-2419, October 1, 1990.

(This suit is identical to a previous suit filed against the Mann for Congress Committee (Civil Action No. 90-1154) that was summarized in the July 1990 Record. The FEC voluntarily dropped that suit.)

PUBLICATIONS

NEW EDITION OF SELECTED COURT CASE ABSTRACTS

The FEC recently published a new edition of Selected Court Case Abstracts, a compilation of court cases in which the agency was involved. Virtually all the summaries first appeared in the Record; the new edition is current through the December 1989 issue.

Selected Court Case Abstracts contains summaries of significant Supreme Court and appeals court cases concerning the Federal Election Campaign Act, FEC regulations and enforcement actions, including: Buckley v. Valeo, FEC v. National Right to Work Committee, FEC v. NCPAC and FEC v. Massachusetts Citizens for Life, Inc. The volume also contains district court decisions as well as cases that did not directly involve the FEC, such as First National Bank of Boston v. Bellotti and Galliano v. U.S. Postal Service. Legal citations are provided for most cases.

Name and subject indexes make the volume helpful to researchers. Copies may be ordered from the FEC's Public Records Office. The price is \$10.00. Call 800/424-9530 and ask for Public Records or call 202/376-3140.

A CAMPAIGN GUIDE FOR EVERY COMMITTEE

To help political committees understand the requirements of the federal election campaign law, the Commission offers a series of Campaign Guide—each one designed for a distinct type of committee.

Available free of charge, these Guides explain the basic provisions of the Federal Election Campaign Act and FEC regulations, such as contribution limits and prohibitions, registration, reporting and fund-raising. Each guide also contains appendices dealing with narrower topics pertinent to the type of committee addressed. In addition, every Guide provides examples of correctly completed reporting forms to illustrate how to fill out reports.

Anyone involved in running a political committee or filing reports will find the Guide an important resource for complying with the law. Committee directors, treasurers, bookkeepers, volunteers and other staff members should use the Guide designed for their type of committee:

- o Campaign Guide for Congressional Candidates and Committees
- o Campaign Guide for Corporations and Labor Organizations
- o Campaign Guide for Political Party Committees
- o Campaign Guide for Nonconnected Committees

To order, call the FEC's Information Services Division (800/424-9530 or 202/376-3120) or use the form provided.

CAMPAIGN GUIDE ORDER FORM

Mail to: FEC Information Services
Division, 999 E Street, NW, Wash-
ington, D.C. 20463

Name: _____

Street Address: _____

City, State, Zip Code: _____

<u>No. of Copies</u>	<u>Campaign Guide</u>
_____	Congressional Candidates and Committees
_____	Corporations and Labor Organizations
_____	Political Party Committees
_____	Nonconnected Committees

FEDERAL REGISTER**FEDERAL REGISTER NOTICES**

Copies of Federal Register notices are available from the Public Records Office.

1990-13

11 CFR Parts 102, 104 and 106: Methods of Allocation Between Federal and Nonfederal Accounts; Payments; Reporting; Final Rule, Announcement of Effective Date (55 Fed. Reg. 40377, October 3, 1990)

1990-14

11 CFR Parts 109 and 114: Corporate and Labor Organization Expenditures (MCFL issues); Additional Request for Comments (55 Fed. Reg. 40397, October 3, 1990)

1990-15

11 CFR Parts 106, 9003, 9007, 9033, 9035 and 9038: Presidential Primary and General

Election Candidates; Technical Requirements for Computerized Magnetic Media; Final Rule; Announcement of Effective Date (55 Fed. Reg. 40377, October 3, 1990)

1990-16

11 CFR Parts 100, 104, 114 and 116: Debts Owed by Candidates and Political Committees; Final Rule; Announcement of Effective Date (55 Fed. Reg. 40376, October 3, 1990)

1990-17

11 CFR Part 110: Domestic Subsidiaries of Foreign Nationals; Announcement of Additional Public Hearing on October 30 at 2:00 p.m. (in addition to previously scheduled hearing, October 31, 10:00 a.m.) (55 Fed. Reg. 41100, October 9, 1990)

COMPLIANCE

MURS RELEASED TO THE PUBLIC

Listed below are MURS (FEC enforcement cases) recently released for public review. The list is based on the FEC press releases of August 27, September 18 and October 9, 1990. Files on closed MURS are available for review in the Public Records Office.

Unless otherwise noted, civil penalties resulted from conciliation agreements reached between the respondents and the Commission.

MUR 1993

Respondents: 1984 Victory Fund, Vincent G. Downing, treasurer (NY)
Complainant: FEC initiated
Subject: Failure to report on time
Disposition: U.S. district court judgment: \$5,000 civil penalty

MUR 2703

Respondents: (a) Texas Democratic Party, Bob Slagle, treasurer; (b) Dukakis/Bentsen Committee, Inc., Robert A. Farmer, treasurer (MA); (c) DNC Services Corporation/Democratic National Committee, Robert A. Farmer, treasurer (DC)
Complainant: Fred Meyer, Chairman, Republican Party of Texas
Subject: Disclaimer; misreporting of coordinated expenditures
Disposition: (a) \$1,500 civil penalty; (b) no reason to believe; (c) \$2,500 civil penalty

MUR 2764

Respondents: (a) Herb Kohl for United States Senate, Inc., Linda de la Mora, treasurer (WI); (b) Herb Kohl (WI); (c) Wisconsin Action Coalition PAC - WACPAC, James Jeffrey Eagan, treasurer; (d) Cranstion for Senate '92, Inc., Solomon M. Kamm, treasurer (CA); (e) Council for a Livable World, Eliot Hubbard, treasurer (MA)
Complainant: Jann L. Olsten, Executive Director, National Republican Senatorial Committee (DC)
Subject: Failure to disclose conduit of earmarked contributions; excessive contributions; improper independent expenditures
Disposition: (a) and (b) \$1,500 civil penalty; (c) no reason to believe; (d) \$500 civil penalty; (e) reason to believe but took no further action

MUR 2791

Respondents: Persons unknown
Complainant: Stan Flint, campaign manager, Friends of Mike Parker for Congress (MS)
Subject: Disclaimer
Disposition: Reason to believe but took no further action

MUR 2922

Respondents: National Pro-Life PAC, Charles C. Fiore, treasurer (WI)
Complainant: FEC initiated
Subject: Failure to report on time
Disposition: \$1,500 civil penalty

MUR 2983

Respondents: Democratic Party of Illinois (FKA Illinois Democratic Party), Stuart Winstein, treasurer
Complainant: FEC initiated
Subject: Failure to amend Statement of Organization on time; excessive coordinated party expenditures
Disposition: \$9,000 civil penalty

MUR 3005

Respondents: Americans United, Ruth M. Stormant, treasurer (VA)
Complainant: FEC initiated
Subject: Failure to report on time
Disposition: \$125 civil penalty

MUR 3014

Respondents: (a) Douglas County Republican Central Committee (unregistered), Chris Miller, treasurer (KS); (b) Second District Republican Committee, Anita Heiman, treasurer (KS)
Complainant: FEC initiated
Subject: Prohibited contributions; failure to register and report
Disposition: (a) \$1,000 civil penalty; (b) \$500 civil penalty

MUR 3017

Respondents: (a) Arnold Steinberg (CA); (b) Arnold Steinberg and Associates, Inc. (CA); (c) Carlos Perez (FL); (d) Carlos Perez Amigo '89, Joan Agatheas, treasurer (FL)
Complainant: Arnold Steinberg; Arnold Steinberg and Associates, Inc.
Subject: Corporate contribution
Disposition: No reason to believe

MUR 3034

Respondents: (a) Equimark Corporation's Political Action Committee (EQUIPAC), Bonnie S. Kabin, treasurer (PA); (b) Alan S. Fellheimer (PA)
Complainant: FEC initiated
Subject: Excessive contributions

Disposition: (a) \$900 civil penalty; (b) \$750 civil penalty

MUR 3049

Respondents: (a) Bill Grant Campaign Fund, Richard A. Weidner, treasurer (FL); (b) Joe P. Burns Funeral Home (FL); (c) Lee A. Everhart & Co. (FL); et al., (d)-(1)

Complainant: Paul D. Harvill (FL)

Subject: Corporate contributions

Disposition: (a)-(c) Reason to believe but take no further action; (d)-(1) no reason to believe

MUR 3050

Respondents: (a) James H. Scheuer (NY); (b) Scheuer for Congress-1990, Frederick C. Buelken, treasurer (NY)

Complainant: Richard Rapp (NY)

Subject: Disclaimer; failure to register as authorized committee

Disposition: No reason to believe

MUR 3072

Respondents: The United Association Local 725 Pipefitters Air Conditioning Political Action Committee, Eric S. Johnson, treasurer (FL)

Complainant: FEC initiated

Subject: Failure to report on time

Disposition: \$1,100 civil penalty

MUR 3076

Respondents: Victory 88 (Virginia), David A. Johnson, treasurer

Complainant: FEC initiated

Subject: Failure to report on time

Disposition: \$250 civil penalty

MUR 3079

Respondents: Friends of Voinovich, Vincent M. Panichi, treasurer (OH)

Complainant: Credit Services of Michigan, Inc.

Subject: Continuous reporting of debts

Disposition: No reason to believe

MUR 3088

Respondents: STERLPAC-Sterling Drug Inc. Employees Political Action Committee for Improved Government, Sal J. Rubino, treasurer (NY)

Complainant: FEC initiated

Subject: Failure to report on time

Disposition: Reason to believe but took no further action

PUBLIC APPEARANCES

11/16-17 American Bar Association
Phoenix, Arizona
Chairman Lee Ann Elliott

INDEX

The first number in each citation refers to the "number" (month) of the 1990 Record issue in which the article appeared; the second number, following the colon, indicates the page number in that issue.

ADVISORY OPINIONS

- 1989-21: Fundraising by sole proprietor in cooperation with candidates, 1:9
1989-25: Preemption of state law limiting party spending on behalf of candidates, 1:10
1989-26: Automatic bank transfers from contributor's account to candidate committee's account, 1:11
1989-27: Act's preemption of state law governing solicitations by state employees, 2:2
1989-28: Voter guides distributed by non-profit corporation, 3:9
1989-29: PAC established by company owned by foreign principal, 2:3
1989-30: Payment to Senator for teaching course, 2:4
1989-32: Foreign national contribution to state ballot measure committee "controlled" by candidate, 8:6
1990-1: Corporation's sale of 900-line fundraising service to candidates, 4:3
1990-2: Candidate's use of excess campaign funds to secure loan for party committee, 4:5
1990-3: PAC's sale of advertising space in newsletter, 5:3
1990-4: Use of credit cards to charge combined dues/contribution payments, 7:1
1990-5: Newsletter published by candidate, 6:4
1990-6: Preemption of Oregon law prohibiting charitable matching plan for PAC contributions, 7:2
1990-7: Transfer from candidate's former Presidential exploratory committee to 1990 House committee, 8:6
1990-8: Establishment of PAC by corporation majority-owned by foreign bank, 8:7

(continued)

- 1990-9: Newsletter published by candidate as sole proprietor, 8:8
- 1990-10: Affiliation between PACs of corporate parent and bankrupt subsidiary, 11:4
- 1990-11: Publicly funded campaign's donation of fundraising items to staff and charity, 8:8
- 1990-12: Volunteer services by former potential candidate who received opinion poll results, 10:5
- 1990-13: Reporting exemption for minor party, 10:5
- 1990-15: Administrative termination of committee involved in disputed debt, 10:6
- 1990-17: Contributions to 1988 campaign to defray FECA-related legal costs, 11:4
- 1990-21: Campaign funds used to pay for travel/subsistence expenses of candidate's wife, 11:5

COURT CASES

- Austin v. Michigan State Chamber of Commerce, 5:5
- FEC v.
 - AFSCME-PQ (88-3208), 10:7
 - Chipman C. Bull for Congress, 8:11
 - Dennis Smith for Congress, 11:10
 - Dramesi for Congress Committee, 11:9
 - Franklin, 1:13
 - Friends of Isaiah Fletcher Committee, 7:4
 - Furgatch (83-0596-GT(M)), 2:7
 - International Funding Institute, Inc., American Citizens for Political Action, Inc., and Dolan, 9:7
 - Lawson, 11:10
 - Life Amendment PAC, Inc. (89-1429), 4:7
 - Mann for Congress Committee, 7:5
 - Mann for Congress Committee (90-2419), 11:10
 - National Republican Senatorial Committee, 10:9
 - National Right to Work Committee, Inc., 5:7
 - NY State Conservative Party/1984 Victory Fund (87-3309), 6:7
 - Speelman, 10:9
 - Weinberg, 10:8

- West Virginia Republican State Executive Committee, 11:10
- Working Names, Inc. (87-2467-GAG), 7:4
- Working Names, Inc. (90-1009-GAG), 7:4
- v. FEC
 - Common Cause (89-0524), 3:11
 - Common Cause (89-5231), 8:11
 - Democratic Senatorial Campaign Committee (90-1504), 8:12; 10:8
 - Dolan, 5:7; 10:8
 - Faucher and Maine Right to Life Committee, Inc. (90-0112-B), 6:7; 9:5
 - Goland, 8:9
 - Kripke, 9:7
 - Miller, 10:7
 - National Rifle Association (89-3011), 2:7

MUR SUMMARIES

- MUR 2823: Excessive contribution received by candidate committee, 2:4
- MUR 2599: Reporting errors by Congressional campaign, 4:6
- MUR 3009: Excessive coordinated expenditures by state party committee, 6:5

800 LINE

- Basic recordkeeping rules, 4:8
- Combined dues/solicitation statements, 1:17
- Contributions earmarked to candidates, 11:8
- Coordinated party expenditures, 3:6
- Designating a principal campaign committee, 1:19
- Disclaimer notices, 5:8
- Exempt party activities, 5:10
- Faxing reports, 9:4
- Last-minute contributions: 48-hour reporting, 7:8
- Last-minute independent expenditures: 24-hour reporting, 7:9
- New treasurer, 2:9
- Transfers from candidate's nonfederal committee to federal committee, 6:8
- What to do about excessive contributions: redesignations and reattributions, 10:11
- When reimbursements are required in SSF fundraising, 2:8

CHANGE OF ADDRESS**Political Committees**

Treasurers of registered political committees automatically receive the Record. A change of address by a political committee (or any change to information disclosed on the Statement of Organization) must, by law, be made in writing on FEC Form 1 or by letter. The treasurer must sign the amendment and file it with the Secretary of the Senate, the Clerk of the House or the FEC (as appropriate) and with the appropriate state office.

Other Subscribers

Record subscribers who are not registered political committees should include the following information when requesting a change of address:

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