

Record

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Federal Election Commission

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Electronic Filing

Obtaining an Electronic Filing Password—First Step to Electronic Filing

In order for a committee to file its reports electronically, the treasurer or assistant treasurer of that committee must first obtain a password from the Commission. The password functions as the treasurer's or assistant treasurer's signature on an electronically filed report and indicates that the electronic filing originated with the committee in whose name it is filed.

Requesting the Password

A committee's treasurer or assistant treasurer can get a password by faxing a request letter to the password office at 202/219-0674. Requests may also be mailed to the Federal Election Commission, 999 E Street N.W., Washington, D.C. 20463. A password request must:

- Include the committee's name and nine-digit FEC identification number;
- Be signed by the treasurer and also by the assistant treasurer if the assistant treasurer is the individual requesting the password;

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Court Cases

Commission Statement on *In re: Sealed Case*

On January 26, 2001, the United States Court of Appeals for the District of Columbia Circuit ruled, in *In re: Sealed Case, 00-5116*, that the Federal Election Campaign Act requires subpoena enforcement actions filed during an enforcement investigation to be litigated under seal. 2 U.S.C. §437g(a)(12). The Commission decided not to seek further review in this case and, on February 15, 2001, issued the following statement in order to clarify its subpoena enforcement policy:

In light of the decision handed down on January 26, 2001, by the United States Court of Appeals for the District of Columbia Circuit in In re: Sealed Case, 00-5116, the Federal Election Commission unanimously believes it should clarify certain matters for the public concerning its subpoena enforcement policy. In addition, the Commission seeks to address any implication that the agency improperly sought to publicize an investigation of particular persons.

For 20 years, the Commission has had a policy to litigate cases brought to enforce its administrative

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Court Cases

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subpoenas on the public record. The Commission adopted this policy in 1980 in part because some federal district courts had criticized the Commission when it attempted to file such actions under seal. Although the Federal Election Campaign Act has a confidentiality provision regarding Commission investigations, the general rule in federal court is that the public has a right of access to all court documents. The Commission's policy was intended to reconcile these two important principles.

Consistent with this long-standing practice, the Commission filed the subpoena enforcement action at hand in open court. The Commission's attorneys provided notice to counsel for the subjects of the investigation and, hence, an opportunity to seek a seal order. The district court denied such a request, but the D.C. Circuit overruled that decision and held that Commission subpoena enforcement

actions must be conducted under seal.

The Commission has decided not to seek review of the D.C. Circuit's ruling, which is the first appellate decision on this issue. The Commission intends to follow this ruling in all subpoena enforcement filings, in all judicial circuits, unless directed otherwise.

The D.C. Circuit's concern that filing subpoena enforcement actions in public might reflect some partisan motivation on the Commission's part is not supported by the record. For 20 years the Commission followed its policy consistently, regardless of the political party or beliefs of the person being investigated, as examination of subpoena actions filed by the agency shows.

By law subpoena enforcement actions never are filed in court without a majority vote of the six Commissioners, no more than three of whom may be from any one party. That procedure was followed in this case, without regard to politics.

While respectfully adhering to the holding of the D.C. Circuit, the Commission hopes this statement will assure the public of the agency's commitment to fair and impartial administration of the campaign finance laws.¹◆

Natural Law Party of the United States v. FEC (00-5338)

On November 30, 2000, the U.S. Court of Appeals for the District of Columbia Circuit granted the appellant's unopposed motion to dismiss the appeal.

U.S. Court of Appeals for the District of Columbia Circuit, 00-5338.◆

Democratic National Committee v. FEC (1:00CV00161(CKK))

On December 20, 2000, this case was dismissed with prejudice following a stipulation to that effect by the parties.

U.S. District Court for the District of Columbia, 1:00CV00161(CKK).◆

Christine Beaumont v. FEC

On January 24, 2001, the United States District Court for the Eastern District of North Carolina, Northern Division, found that the prohibitions on corporate contributions and expenditures of the Federal Election Campaign Act (the Act) and Commission regulations were unconstitutional as applied to North Carolina Right to Life, Inc. (NCRL), a non-profit, MCFL-type corporation.¹ The court found that the statute and regulations infringed on NCRL's First Amendment rights without a

¹ In *FEC v. Massachusetts Citizens for Life (MCFL)* 479 U.S. 238 (1986), the Supreme Court concluded that 2 U.S.C. §441b could not constitutionally prohibit certain nonprofit corporations from making independent expenditures. MCFL was exempt from this ban because it had the following features:

- It was formed to promote political ideas and did not engage in business activities;
- It did not have shareholders or other persons who had a claim on its assets or earnings, or who had other disincentives to disassociate themselves from the organization; and
- It was not established by a business corporation or labor union and had a policy of not accepting donations from such entities.

Commission regulations at 11 CFR 114.10 incorporate the MCFL decision. These regulation establish a test to determine whether a corporation qualifies for exemption from the Act's prohibition against corporate independent expenditures.

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Washington, DC 20463

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800/877-8339 (FIRS)

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<http://www.fec.gov>

¹ This statement was unanimously adopted by the six Commissioners on February 15, 2001.

compelling state interest. The court permanently enjoined the Commission from relying on, enforcing or prosecuting violations of 2 U.S.C. §441(b) and 11 CFR 114.2(b) and 114.10—or any other parts of the Act whose restrictions flow from these provisions—against the plaintiffs.

The court did not find, however, that 2 U.S.C. §441(b) and its implementing regulations were unconstitutional on their face. In order to find a statute facially unconstitutional, rather than merely invalid as applied to a specific case, the court must find that its constitutional infringements are “substantial” in relation to its legitimate uses. The plaintiffs submitted a list of nonprofit, tax-exempt corporations, arguing that the statute’s unconstitutional infringement was “substantial” in that it reached “hundreds, if not thousands, of constitutionally protected ideological corporations.” The court, however, ruled that the plaintiffs had failed to show that the statute’s constitutional infringements were substantial in relation to their “plainly legitimate sweep.” The court said, “In light of these numbers [4.5 million for-profit corporations] and the importance of the statute’s ‘plainly legitimate’ purpose of regulating for-profit corporations, its inadvertent infringement on the rights of ‘hundreds if not thousands’ does not appear ‘substantial’ . . .” The court concluded that the constitutionality of the statute should be considered on a case-by-case basis.

U.S. District Court for the Eastern District of North Carolina, Northern Division, 2:00-cv-2-BO(2). ♦

New Litigation

Miles for Senate Committee et al. v. FEC

On January 18, 2001, former U.S. Senate candidate Steven H. Miles, his principal campaign committee, Miles for Senate Committee (the Committee), and the Committee’s treasurer, Barbara Steinberg, filed suit against the Federal Election Commission in the United States District Court for the District of Minnesota. The complaint appeals a civil money penalty the Commission assessed against the committee and its treasurer and claims that the Commission’s assessment of that penalty was arbitrary and capricious, without legal authority, an abuse of discretion and a denial of the plaintiffs’ right to due process.

Background. Ms. Steinberg mailed the Committee’s July 2000 Quarterly report via first class mail on the filing date, which was July 15, 2000. The Commission received the report six days later. Under Commission regulations, if a report is sent registered or certified mail, it is considered filed on the date of the U.S. postmark. However, if a report is sent by first class mail, it is considered filed on the date that it is received by the Federal Election Commission or the Secretary of the Senate. 11 CFR 104.5(e).

In August 2000, the Commission found reason to believe that the Committee and Ms. Steinberg had violated 2 U.S.C. §434(a), which requires the timely filing of reports by political committees.

In September 2000, the Commission’s Office of Administrative Review received from the Committee and Ms. Steinberg a written response to the Commission’s reason-to-believe notice. After reviewing the Commission’s reason-to-believe finding with its supporting documentation, as well as the Committee’s response to that finding, the Reviewing Officer

recommended that the Commission make a final determination that the Committee and its treasurer violated 2 U.S.C. §434(a) and assess a \$2,700 civil money penalty for the violation. The Commission adopted the Reviewing Officer’s recommendation on December 14, 2000. Plaintiffs filed suit against the Commission on January 18, 2001.

Relief. The plaintiffs ask that the court:

- Review and reverse or modify the Commission’s actions, including the assessment of the civil money penalty; and
- Grant the plaintiffs their reasonable attorneys fees and costs.

U.S. District Court District of Minnesota Fourth Division, (No. 01-CV-83 (PAM) (JGL)). ♦

Electronic Filing

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- Include the treasurer’s phone number and, if applicable, the phone number of the assistant treasurer; and
- Be printed on the committee’s letterhead (if the committee has official letterhead).

A sample request can be viewed on the FEC’s Web site at <http://www.fec.gov/electfil/passreqlet.html>.

Requests sent by fax can usually be processed within a few hours. However, committees are encouraged to request a password as early as possible. Requests received near a filing deadline may not be processed in time for a committee to use the password to file a timely report.

Assigning the Password

Once the password office receives the letter requesting a password, it will verify that the requester is listed as the treasurer (and

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Electronic Filing

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assistant treasurer, if applicable) of that committee on that committee's Statement of Organization (FEC Form 1). Only the committee's treasurer and assistant treasurer can receive a password. If the requester is not correctly listed on the Statement, then he or she must file an amended Statement of Organization before receiving a password.

If the requester is listed on the Statement of Organization, then a representative from the password office will call the requester and ask him or her to choose a password. This password will be assigned immediately. Passwords are case sensitive and must be entered exactly as initially assigned.

Lost or Forgotten Password

The Commission cannot provide a treasurer's password to a treasurer or committee if a treasurer forgets or loses the password because the passwords are encrypted. Instead, the treasurer must ask for a new password, repeating the process described above.

For more information, go to the FEC's Web site at <http://www.fec.gov/electfil/passwords.html>. Or call 202/694-1293 for assistance. ♦

Reports

Committees Required to File Tax Returns

Last July, Congress enacted Pub. L. 106-230, which imposes new tax-reporting requirements on political organizations that are established under Section 527 of the Internal Revenue Code. These filings are required under the tax code and, thus, are administered by the Internal Revenue Service—not the Federal Election Commission.

IRS Filing Requirements

	Form 1120 POL	Form 990
Tax Year Beginning Before July 1, 2000	Filed if the committee has taxable income	Not Filed
Tax Year Beginning On or After July 1, 2000	Filed if the committee's annual gross receipts are \$25,000 or more, <i>or</i> if it has taxable income	Filed if the committee is required to file Form 1120 POL
Reporting Dates	Due the 15th day of the 3rd month after the close of the tax year	Due the 15th day of the 5th month after the close of the tax year

Nevertheless, as a service to readers of the *Record*, the Commission is providing the following information on tax requirements. Individuals should contact the IRS for more information by calling 877/829-5500.

Under the tax code, the term "political organization" generally includes any political committee that the Federal Election Commission regulates, including political party committees, political action committees and candidate committees. While committees that file financial reports with the Commission are not required to file IRS Form 8871 (Political Organization Notice of Section 527 Status) or IRS Form 8872 (Political Report of Contributions), committees may be required to file the following tax returns (with the IRS):

- Form 1120 POL: US Income Tax Return for Certain Political Organizations – Political committees currently use this form to pay section 527 tax; and

- Form 990: Return of Organization Exempt from Income Tax ¹– Tax exempt organizations (including political organizations) use this form to provide the IRS with information required by section 6033 of the Internal Revenue Code.

IRS filing requirements vary depending on whether a committee's tax year began before or after July 1, 2000, and whether the committee had taxable income for the year.

Political Committees with Tax Years Beginning Before July 1, 2000

Form 1120-POL. Political committees whose tax year began before the July 1, 2000, enactment of Pub. L. 106-230 are required to file Form 1120-POL only if they had taxable income.

¹ Organizations with gross receipts of less than \$100,000 and assets of less than \$250,000 at the end of the year may file a Form 990-EZ, Short Form Return of Organizations Exempt from Income Tax. All other political organizations file a Form 990, Return of Organization Exempt from Income Tax.

Form 990. Committees are not required to file Form 990 for a tax year that began before July 1, 2000.

Political Committees with Tax Years Beginning On or After July 1, 2000

Form 1120-POL. All political committees whose tax year began on or after July 1, 2000, are required to file 1120-POL if their gross receipts are normally \$25,000 or more *or* if they had any taxable income.

Form 990. Political committees required to file 1120-POL are also required to file Form 990.

Reporting Dates

IRS Form 1120-POL is due the 15th day of the 3rd month after the close of the tax year. For example, a political committee whose tax year ended on December 31, 2000, must file the form by March 15, 2001.

IRS Form 990 is due the 15th day of the 5th month after the close of the tax year. For example, a political committee whose tax year ended on June 30, 2001, must file the form by November 15, 2001.

Public Inspection of Forms

Forms 1120-POL that are filed by political committees with a tax year that began before July 1, 2000, are not open for public inspection. All of the other forms discussed above are available to the public.

Forms and Information

These IRS forms are available electronically at the IRS Web site, www.irs.gov/polorgs, in the "Filing Requirements" section. ♦

California Special Election Reporting

The Special Election to fill the U.S. House seat of the late Congressman Julian C. Dixon in the Thirty-Second Congressional District will be held on April 10, 2001. Should no candidate achieve a majority vote, a Special Runoff Election will be held on June 5, 2001, among the top vote-getters of each qualified political party, including qualified independent candidates. Note that 48-hour notices are required of authorized committees that receive contributions of \$1,000 or more between March 22 and April 7 for the Special General Election and between May 17 and June 2 for the Runoff Election. Committees involved in any of these elections must follow the reporting schedules below.¹

For Committees Involved Only in Special General When No Runoff is Held:

	Close of Books	Reg./Cert Mail Date	Filing Date
Pre-General Report	March 21	March 26	March 29
Post-General Report	April 30	May 10	May 10
Mid-Year Report	June 30	July 31	July 31

For Committees Involved in Special General and Special Runoff:

	Close of Books	Reg./Cert Mail Date	Filing Date
Pre-General Report	March 21	March 26	March 29
Pre-Runoff Report	May 16	May 21	May 24
Post-Runoff Report	June 25	July 5	July 5
Mid-Year Report	June 30	July 31	July 31

For Committees Involved Only in Special General When Both Special General and Runoff Elections Are Held:

	Close of Books	Reg./Cert Mail Date	Filing Date
Pre-General Report	March 21	March 26	March 29
Mid-Year Report	June 30	July 31	July 31

¹ Reports filed electronically must be submitted by midnight on the filing date. Reports filed on paper and sent by registered or certified mail must be postmarked by the mailing date; reports sent by any other means (including reports sent via first class mail) must be received by the Commission's close of business on the filing date.

Compliance

Committees Fined Under Administrative Fines Program

The FEC recently publicized its final action on 41 Administrative Fines cases. The Administrative Fines program is intended to reduce the number of financial reports filed late or not at all without jeopardizing critical Commission resources needed for more important and complex enforcement efforts.

Civil money penalties are determined by the number of days the report was late, the amount of financial activity involved and any

prior penalties for violations. Election sensitive reports (reports and notices filed prior to an election) receive higher penalties.¹◆

¹The following committees and their treasurers were assessed civil money penalties under the Administrative Fines regulation:

Ann Arbor National PAC (\$975), *Association of American Railroads PAC* (\$700), *Aventis Pharmaceuticals Products Inc., PAC* (\$900), *BankBoston Corporation PAC* (\$1,800), *Bob Rovner for US Senate—2000* (\$900), *Citizens for Dwight E. Bryan* (\$1,800), *Coca-Cola Enterprises Inc. Employee Nonpartisan Cmte. for Good Gov't* (\$2,600), *Cmte. to Elect Jim Schmitt* (\$330), *Cmte. to Re-Elect Congressman Dana Rohrabacher* (\$500), *Congressional Black Caucus PAC* (\$900), *Dick Arney Campaign Cmte.* (\$2,700), *Dorsey National Fund* (\$1,350), *DRS Technologies Good Gov't Fund* (\$425), *Federal Managers' Association PAC* (\$300), *Fort James Corporation PAC* (\$650), *International Council of Cruise Lines PAC* (\$1,200), *Jennifer Carroll for Congress* (\$7,500), *John Coffey for Congress* (\$500), *Lincoln Diaz-Balart for Congress Cmte.* (\$3,500 and \$2,000)—for two reports, *Mary Bono Cmte.* (\$2,725), *Matthew Martinez Congressional Cmte.* (\$900), *Meeks for Congress 2000* (\$2,000), *Mike Ross for Congress Cmte.* (\$3,200), *Mike Serabian for Congress* (\$350), *Miles for Senate* (\$2,700)—unpaid, *Missouri Democratic State Cmte.* (\$6,800), *New Jersey State Laborers' PAC/Laborers' Political League* (\$2,700), *News America Holdings Inc.—Fox PAC* (\$900), *Noble Willingham for Congress* (\$1,200), *People for Charlie Gerow* (\$900), *Richard Cordray for US Senate Cmte.* (\$725), *Richard Pombo for Congress* (\$2,800), *Ronald R. Dickson for US Senator* (\$0)—penalty reduced due to lack of activity on the report, *Sallie Mae Inc. PAC* (\$600), *San Bernardino County Republican Central Cmte.* (\$1,800), *Spear, Leeds & Kellogg Good Government Fund Cmte.* (\$400), *Steve Money for Congress* (\$325), *Tom Sullivan for Congress Cmte.* (\$650), *Trea Senior Citizens League Inc. PAC* (\$425), *United Services Planning Association Inc. PAC* (\$775), *Wine Institute PAC* (\$1,125)

Public Appearances

March 8, 2001
The George Washington University
Washington, D.C.
Lynn Fraser

March 17, 2001
Institute for Humane Studies
Naples, Florida
Commissioner Smith

March 25, 2001
Alliance for Justice
Washington, D.C.
Commissioner Wold

March 26, 2001
Yale University
New Haven, Connecticut
Commissioner Sandstrom

March 28, 2001
Federal Bureau of Investigation
Minneapolis, Minnesota
James Pawlick

March 28, 2001
The Federalist Society, Boston College Law School Chapter
Newton, Massachusetts
Commissioner Smith

Advisory Opinions

AO 2000-27

Status of State Party as State Committee of Political Party

The United Citizens Party of South Carolina (the United Citizens Party) satisfies the requirements for state committee status.¹

The Federal Election Campaign Act (the Act) defines a state committee. 2 U.S.C. §431(15). In order to achieve state committee status under Commission regulations, an organization must meet two requirements. It must have:

- Bylaws or a similar document that “delineates activities commensurate with the day-to-day operation” of a party at a state level; and
- Ballot access for at least one federal candidate who has qualified as a candidate under Commission regulations.

The United Citizens Party meets both requirements. It satisfies the first requirement because its bylaws set out a comprehensive organizational structure for the party from the statewide level down through local levels, and the bylaws clearly identify the role of the United Citizens Party.

The United Citizens Party satisfies the second requirement—ballot access for a federal candidate—in that two individuals who had met the requirements for becoming a federal candidate gained ballot access as the United Citizens

¹ The United Citizens Party is not affiliated with any national political party. The Commission has, however, recognized the state committee status of other party committees affiliated with national organizations that did not qualify as national committees of a political party. The most recent example is the granting of state committee status to the Pacific Green Party of Oregon. AO 2000-39.

Party's candidates on the South Carolina ballot in 2000.² They were Ralph Nader and George L. Brightharp³

Date Issued: January 11, 2001;
Length: 4 pages. ♦

[AO 2000-40](#)

Donations to Legal Defense Fund of Member of Congress

Representative Jim McDermott, Representative Fortney H. Stark and other members of Congress may donate excess campaign funds from their respective authorized committees to Representative McDermott's legal defense fund, the Jim McDermott Legal Expense Trust (the Trust). Such donations would not constitute the personal use of campaign funds under the Federal Election Campaign Act (the Act), and funds accepted by the Trust would not be considered contributions subject to the prohibitions and limitations of the Act.

² *An individual becomes a candidate for the purposes of the Act (2 U.S.C. §441a(d)) once he or she receives contributions aggregating in excess of \$5,000 or makes expenditures in excess of \$5,000. Federal candidates must designate a principal campaign committee within 15 days after qualifying as a candidate, and the committee also becomes subject to registration and reporting requirements. 2 U.S.C. §§432(e)(1) and 434(a); 11 CFR 101.1, 102.1 and 104.1.*

³ *Ralph Nader was the Party's candidate for President. George L. Brightharp ran for U.S. Representative from the 3rd Congressional District Mr. Brightharp also held a separate ballot line for other another party in his Congressional campaign. The Commission has in the past concluded that "fusion" candidates—candidates with ballot lines for more than one party—may be considered when reviewing a party's qualification for state committee status. AOs 2000-21 and 2000-14.*

Background

The Trust funds legal expenses related to a civil suit filed by Representative John Boehner against Representative McDermott. The suit, *Boehner v. McDermott*, alleges that in 1996 Representative McDermott, then the ranking Democratic Member of the Ethics Committee, distributed to newspapers an unlawfully-taped phone conversation between Representative Boehner and other House Republican leaders.

In October 2000, the House Ethics Committee conditionally approved the establishment of the Trust to pay for legal expenses incurred by Representative McDermott in connection with his duties as an officeholder. According to the Trust Agreement, funds from the Trust may not be used to pay for any legal expenses that arise from any matter that is "primarily personal in nature." The funds are maintained separately from Representative McDermott's "personal, political, or official funds" in accounts that are established exclusively for administering the Trust. If the Trust has excess funds, the trustee in charge of its administration, and not Representative McDermott, will distribute the remaining funds to the contributors in proportion to their donations.

Personal Use of Campaign Funds

Under the Act, a committee has wide discretion in its use of excess campaign funds: A Member of Congress may use excess campaign funds to pay any ordinary and necessary expense incurred in connection with his or her duties as a federal officeholder (or for any other "lawful purpose"), but may not convert these funds to personal use. 2 U.S.C. §§431(9) and 439a; 11 CFR 113.1(g) and 113.2(a) and (d). See also AOs 2000-37, 2000-12, 1998-1 and 1997-27. Commission regulations define personal use as "any use of funds in a campaign

account of a present or former candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder." 11 CFR 113.1(g). Commission regulations list a number of uses that would constitute personal use in and of themselves. Other types of expenses, however, must be examined by the Commission individually, based on the definition of personal use at 11 CFR 113.1(g). Legal expenses are specifically listed among those that require case-by-case analysis. 11 CFR 113.1(g)(1)(ii)(A). See also AOs 1998-1, 1997-12 and 1996-24.

Donations to the Trust from Representative McDermott's Campaign

The conduct at issue in *Boehner v. McDermott* resulted directly from activities Representative McDermott engaged in as a result of his position as the Ranking Minority Member of the Ethics Committee.¹ Thus, funds donated to the Trust would not be expended for Representative McDermott's personal use because the expense would not exist irrespective of his duties as a federal officeholder. The donation of Representative McDermott's campaign funds to the Trust is permissible under Commission regulations as long as funds in the Trust are separate from any other campaign or personal accounts and as long as they will only be used for:

- Legal expenses related to *Boehner v. McDermott* or other legal

(continued on page 8)

¹ *In AO 1997-27, the Commission found that Representative Boehner could use campaign funds to finance his case against Representative McDermott based on the fact that his involvement in the taped conversation and others' interest in its contents were results of his role as a federal officeholder.*

Advisory Opinions

(continued from page 7)

expenses arising from the same set of facts;

- Administrative expenses necessary to manage the Trust and to compensate the trustee in charge; and
- The distribution of funds remaining at the termination of the Trust in accordance with the Trust's agreement, in order to prevent the personal use of campaign funds.

Donations to the Trust from Other Members' Campaign Funds

Although 11 CFR section 113.1 (g)(6) provides that donations to a Member's legal defense trust, established under the House rules, are not contributions, Commission regulations do not specifically address whether the donation of campaign funds by one Member of Congress to the legal defense fund of another constitutes the personal use of campaign funds by the donor. In this case, such donations on the part of Representative Stark and others would be permissible because the expense would not exist irrespective of their duties as federal officeholders. The Commission based its view on two arguments. First, *Boehner v. McDermott* may present matters of institutional concern for all Members of the House and may be relevant to the conduct of each Member in his or her capacity as a Member of the House. Second, the use of Trust funds is restricted, as described above, in order to prevent the personal use of campaign funds by the Member or other persons and to assure that they are used exclusively to pay legal expenses arising from the circumstances under scrutiny in *Boehner v. McDermott*.

Reporting of Donations

Donations to the Trust would not be contributions subject to the contribution limits and prohibitions of the Act. See 2 U.S.C. §§441a,

441b, 441c, 441e, 441f and 441g and 11 CFR 100.7. Any candidate committee that makes such donations to the Trust, however, must disclose them as other disbursements in its regular reports to the Commission.

Date Issued: February 7, 2001;
Length: 7 pages. ♦

Advisory Opinion Request

AOR 2001-3

Principal campaign committee's purchase of car to take candidate and staff to campaign events (Representative Gregory W. Meeks, February 8, 2001) ♦

Statistics

Congressional Campaign Spending Reaches Record Level

Congressional campaign spending for the 2000 general election exceeded \$858 million—a 39 percent increase from the 1997-98 cycle. Apart from this general election spending, candidates in special elections spent at least \$9 million, and candidates who ran only in the primaries spent more than \$109 million. This information is based on reports filed by candidate committees during the period covering January 1, 2000, through November 27, 2000.

According to post-general election reports, U.S. Senate and House candidates raised an unprecedented \$908.3 million during the 1999-2000 election cycle, up 37 percent from the amount raised in 1997-98. Receipts for House candidates increased by 28 percent, while spending rose by 32 percent from the last election cycle. Senate candidates showed a 51 percent increase in receipts and a 50 percent

increase in spending.¹ In the aggregate, Democratic House and Senate candidates spent slightly more than Republican candidates. Democrats spent \$439.5 million, a 56 percent increase over the last election cycle, and Republicans spent \$411.2 million, a 24 percent increase.

The largest percentage of funds raised in this election cycle came from individual contributors. Individuals contributed \$490.9 million, while political action committees and other committees contributed \$243.1 million. The candidates themselves contributed \$128.9 million in loans and other types of contributions.

Additional details are available in a news release dated January 9, 2001. The release includes overall summary data by political party, by candidate status and by past election cycle (covering the past six cycles). The news release is available:

- On the FEC Web site at <http://www.fec.gov/news.html>;
- From the Public Records Office (800/424-9530, press 3) and the Press Office (800/424-9530, press 5); and
- By fax (call the FEC Faxline at 202/501-3413 and request document 612). ♦

Democratic and Republican Party Fundraising Increases

The Democratic and Republican parties raised a total of \$1.2 billion between January 1, 1999, and November 27, 2000. This amount, which includes both federal and nonfederal funds, is nearly double the amount raised during the same period in the 1998 election cycle

¹ Some of this spending increase was due to the amount of financial activity in the New York and New Jersey races. Comparisons of Senate races are always problematic because different states are involved in each two-year election cycle.

and 37 percent greater than that raised during the last Presidential cycle in 1996.

Democratic Party

Between January 1, 1999, and November 27, 2000, Democrats raised \$269.9 million in federal funds—a 29 percent increase from the previous election cycle—and spent \$253.4 million in federal funds. They disclosed \$37.8 million in cash-on-hand and \$17.7 million in debts in their post-general election reports.

Democrats spent a total of \$26.3 million in direct support of their candidates. They spent \$3.8 million of this total in contributions, \$20.2 million in coordinated expenditures and \$2.2 million in independent expenditures.

Democrats also raised \$243 million in nonfederal funds during this period, an amount which represents a 99 percent increase

over funds raised during the last Presidential cycle. Nonfederal funds represented 47 percent of Democratic Party fundraising.

Republican Party

Between January 1, 1999, and November 27, 2000, Republicans raised \$447.4 million in federal funds. This fundraising represents a ten percent increase over the 1996 election cycle. Republicans spent \$406.6 million in federal funds, and they disclosed \$36.6 million in cash-on-hand and \$4.5 million in debts in their post-general election reports.

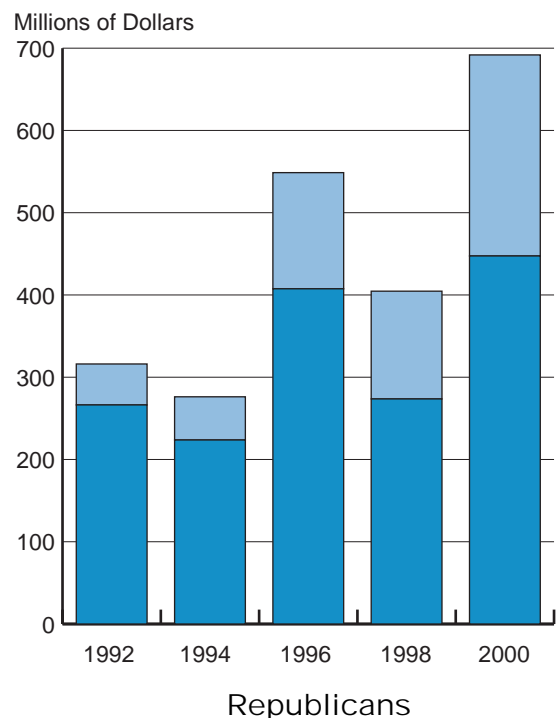
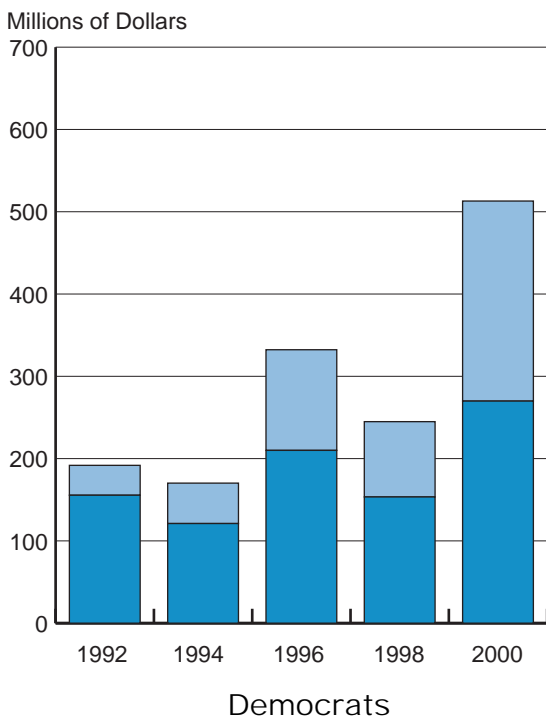
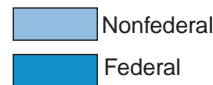
Republicans spent a total of \$33.7 million in order to directly support their candidates. Contributions to candidates represented \$2.7 million of this total, and coordinated party expenditures represented nearly \$29 million. Republicans also spent almost \$2 million on independent expenditures.

Additionally, Republicans raised \$244.4 million in nonfederal funds during this period—a 73 percent increase over nonfederal funds raised during the last Presidential cycle. Nonfederal funds represented 35 percent of Republican Party financial activity.

For more information, see the chart below. Additional details are available in a news release dated January 12, 2001. The release, which includes statistical information dating back to the 1992 election cycle, is available:

- On the FEC Web site at <http://www.fec.gov/news.html>;
- From the Public Records Office (800/424-9530, press 3) and the Press Office (800/424-9530, press 5); and
- By fax (call the FEC Faxline at 202/501-3413 and request document 613).◆

Party Receipts
January 1—November 27, 2000



Budget

Commission Makes Supplemental Request

On January 31, 2001, the Commission approved a Fiscal Year 2001 Supplemental Appropriation Request, which would allow the FEC to expand its Office of Election Administration (OEA) in order to provide assistance to state and local election administrators. The supplemental proposal requests \$3 million in "no-year"¹ funds that would be spent to:

- Develop election operations standards, including guidelines for training election workers, administering and maintaining automated voting systems, and designing ballots;
- Update and develop OEA publications that address current election issues, including many of those arising from the 2000 Presidential election;
- Identify needs and resource requirements of local and state election officials;
- Design grant program criteria by which federal funds could be distributed to state and local jurisdictions should Congress decide to provide funds for the replacement of voting systems or for other election administration needs; and
- Expand the OEA staff.

The proposal was submitted to the House Appropriations Committee in conjunction with a request for additional funding for the OEA in the Commission's Fiscal Year 2002. The plan places the Commission in a position to respond to federal initiatives regarding the election administration issues highlighted during the recent Presidential election. The proposal would allow

¹ No-year funds are funds that would be available beyond September 30, 2001.

OEA to act quickly to enact both short-term and long-term improvements in election administration.

OEA, which currently serves as a national clearinghouse with respect to the administration of federal elections, is well positioned to respond to such federal initiatives in that it already:

- Serves as an objective moderator among issue groups, election officials and political office holders;
- Works with voting machine vendors and the election administrators charged with acquiring and operating voting machines;
- Addresses issues key to election administrators, such as polling place accessibility, Internet voting, and Voting System Standards; and
- Participates in the implementation of federal initiatives in election administration.

OEA's plan is structured to use the Office's expertise to implement both immediate and long-term improvements to the administration of federal elections without creating any new or duplicative bureaucracy. ♦

Outreach

Spring Conferences

This year the Federal Election Commission will hold three spring conferences. Each conference will be tailored to meet the specific needs of a different type of organization:

- Corporations;
- Trade Associations; and
- Labor and Membership Organizations.

The conferences will consist of a series of workshops presented by Commissioners and experienced FEC staff, who will explain how the requirements of the federal election law apply to the organization for

which the conference is designed. The conferences will cover the basic provisions of the federal election law and explain the rules governing participation by corporations, trade associations or labor/membership organizations and their political action committees (PACs). Seminars will also address the new electronic filing requirements. In addition, a representative from the Internal Revenue Service will be available to answer election-related tax questions. Each conference is two and one-half days long and will be held in the Washington D.C. area.

Conference for Corporations, April 4-6

The Corporate Conference will be held April 4-6, 2001, at the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, S.W., Washington, D.C. The registration fee for this conference is \$375, which covers the cost of the conference, materials and meals. The registration form and fee must be received by March 21 in order to avoid a \$10 late registration fee. Individuals who cancel their registration on or before March 21 will receive a full refund.

A room rate of \$209 (single) and \$229 (double) is available to individuals who make their reservations by March 14. After this date, room rates will be based on availability. The hotel is located near the L'Enfant Plaza Metro and Virginia Railway Express stations, and parking is available at the hotel for \$14 a day and \$22 overnight.

To make hotel reservations, call (800)635-5065 or (202)484-1000 (extension 5000). In order to receive the conference rate, you must notify the hotel that you will be attending the FEC conference.

Conference for Trade Associations, April 9-11

The Trade Association Conference will be held April 9-11, 2001, at the Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington

ton, VA. The registration fee for this conference is \$350, which covers the cost of the conference, materials and meals. If the registration form and fee are not received by March 26, a \$10 late registration fee will be assessed. Individuals must cancel their registration by March 26 in order to receive a full refund.

For hotel reservations made by March 12, a room rate of \$149 (single) and \$169 (double) is available. After March 12, rates will be based on availability. The hotel is located near the Crystal City Metro station and five blocks from the Crystal City Virginia Railway Express station. Limited parking is available for a daily fee of \$12.

Call (800) HILTONS or (703)418-6800 to make hotel reservations. You must notify the hotel that you will be attending the FEC conference in order to receive the conference rate.

Conference for Labor and Membership Organizations, June 11-13

The Conference for Labor and Membership Organizations will be held June 11-13, 2001, at the Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington, VA. The registration fee for this conference is \$375, which covers the cost of the conference, materials and meals. Further registration information will be made available next month in the *Record* and on the FEC Web site.

Registration Information

Conference registrations will be accepted on a first-come, first serve basis. Attendance is limited, and FEC conferences have sold out in past years, so please register early. Individuals may now register for FEC conferences on line at Sylvester Management Corporation's secure Web page at www.fec.gov/pages/infosvc.htm#Conferences. Individuals may submit the registration form and credit card payment information on line, or they may complete the

screen-fillable conference registration form available at the Web site, print it, and:

- Fax it to Sylvester Management Corporation at (803)732-0135; or
- Mail it to Sylvester Management Corporation, P.O. Box 986, Irmo, South Carolina 29063.

Conference registration information is also available:

- By telephone—call (800)246-7277; and
- By e-mail—send inquiries to toni@sylvestermanagement.com.

Program Information

For specific program information about any of these conferences, call the Federal Election Commission's Information Division at (800)424-9530 (press 1, then 3) or (202)694-1100. ♦

Trade Associations and Membership Organizations: Which Conference Should You Attend?

The FEC's Trade Association Conference is intended only for trade associations. Representatives from other types of membership organizations should attend the conference for Labor and Membership Organizations. If you are not certain which type of organization you represent, please read the following descriptions of trade associations and membership organizations. Membership organizations and trade associations share many of the same characteristics—indeed, trade associations are a type of membership organization. Trade associations, however, have certain unique characteristics and rules, which set them apart from other kinds of membership organizations.

Definition of Membership Organization

Generally, a membership organization is defined by the following criteria:

- It provides for members in its articles and bylaws;
- It seeks members;
- It acknowledges the acceptance of members (e.g., by distributing membership cards); and
- It is not organized primarily for the purpose of influencing the election of an individual for federal office.

Definition of Trade Association

In addition to having the characteristics above, a trade association possesses two unique features:

- Its membership is comprised of persons and/or companies engaged in a similar or related line of commerce or business; and
- It is organized to promote and improve the business conditions of its members.¹

Thus, if your organization qualifies as a trade association, you should attend the FEC Conference on April 9-11, 2001, which will focus on the unique rules particular to your type of membership organization. If, on the other hand, you represent any other type of membership organization (such as a non-profit ideological 501(c)(4) corporation, a cooperative, a mutual insurance company or a business organization with members in more than one line of commerce), the FEC asks that you instead attend the FEC Conference for Membership and Labor Organizations on June 11-13, 2001. ♦

¹ *In past advisory opinions, the Commission cited examples of organizations which qualified as trade associations or membership organizations. For examples of trade associations, see AOs 1995-12 (association for a particular type of banking), 1994-19 (medical society for a particular field of medicine) and 1977-44 (association for a particular specialty of law). For examples of membership organizations, see AOs 1999-10 (mutual insurance company), 1996-21 (business council), 1990-18 (credit union) and 1985-37 (local chamber of commerce).*

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