

# Record

April 2002

Federal Election Commission

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## Election Administration

### **Public Hearing on Voting Systems Standards**

The FEC will hold a public hearing on April 17 to receive additional testimony and comments about proposed revisions to the Voting Systems Standards (the Standards). The revised Standards have two volumes:

- Volume I provides technical and performance requirements for a number of system types and configurations;
- Volume II provides testing specifications for the requirements in Volume I.

Both Volumes are available on the FEC web site at <http://www.fec.gov/pages/vss/vss.html>.

The hearing will be held in the Federal Election Commission's 9<sup>th</sup> floor hearing room at 10:00 a.m. Requests to testify must be received by the Commission by April 7. All requests should be addressed to Penelope Bonsall, Director of the Office of Election Administration, and must be submitted in written or electronic form. Due to recent

(continued on page 2)

## Reports

### **April Reporting Reminder**

Committees filing on a quarterly basis must file their first quarterly report by April 15. Those filing on a monthly basis have a report due on April 20.

In addition to filing quarterly reports, committees of House and Senate candidates active in the 2002 primary and runoff elections must file pre-election reports and may have to file 48-hour notices. PACs and party committees filing on a quarterly basis may also have to file pre-election reports and 24-hour reports of independent expenditures.

### **Filing Electronically**

Under the Commission's mandatory electronic filing regulations, individuals and organizations that receive contributions or make expenditures in excess of \$50,000 in a calendar year—or expect to do so—must file all reports and statements with the FEC electronically. Electronic filers who instead file on paper or submit an electronic report that does not pass the validation test will be considered nonfilers and may be subject to enforcement actions (including administrative fines).

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## Election Administration

(continued from page 1)

delays in mail service to government offices, the Commission encourages submissions by fax at 202/219-8500 or by e-mail at [vss@fec.gov](mailto:vss@fec.gov) (e-mailed submissions must include the requestor's full name, e-mail address and street address). Mailed requests should be sent to 999 E Street NW, Washington, D.C., 20463. ♦

—Amy Kort

## New Appointees to the OEA Advisory Panel

On March 21, 2002, the Commission appointed the following individuals to the Office of Election Administration (OEA) Advisory Panel:

- Christopher Thomas, Director of Elections, Michigan;
- Gary Bartlett, Executive Director, North Carolina State Board of Elections;

- Kevin Kennedy, Executive Director, Wisconsin State Board of Elections;
- Alice P. Miller, Executive Director, District of Columbia Board of Elections and Ethics; and
- Kimberly Wyman, Thurston County Auditor, Olympia, Washington.

The new appointees replace former panel members Candice Miller, Lucinda Burnette, Lance Ward, Carolyn Jackson and Gary McIntosh.

The OEA Advisory Panel, established in 1976, is composed of state and local election officials from across the country. Officials are nominated to the Panel by the OEA Director and appointed by the Commission. The Panel meets annually and advises the OEA and the Commission on methods of allocating resources in order to best serve the needs of election officials. ♦

—Amy Kort

## Reports

(continued from page 1)

Senate committees and other committees that file with the Secretary of the Senate are not subject to the mandatory electronic filing rules, but may file an unofficial electronic copy of their reports with the FEC in order to speed disclosure. 11 CFR 104.18.

## Filing by Mail

In response to the anthrax threat, the U.S. Postal Service is irradiating mail directed to many federal government agencies, including the Federal Election Commission. This process has not only delayed mail delivery, it has also damaged and in some cases destroyed pieces of mail. As a result, committees that file reports with the Commission may want to consider submitting their reports by some means other than regular U.S. mail. Alternative methods include:

- Electronic filing;
- Overnight mail service; and
- Hand delivery.

Committees that choose to file electronically can download free FECFile software from the FEC web site at <http://www.fec.gov/electfil/electron.html>, and may contact the Commission's Electronic Filing office for assistance at (800) 424-9530 or (202) 694-1307.

## Additional Information

For more information on 2002 reporting dates:

- See the reporting tables in the January 2002 *Record*;
- Call and request the reporting tables from the FEC at 800/424-9530 (press 1, then press 3) or 202/694-1100;
- Fax the reporting tables to yourself using the FEC's Faxline (202/501-3413, document 586); or
- Visit the FEC's web site at [www.fec.gov/pages/charts.htm](http://www.fec.gov/pages/charts.htm) to view the reporting tables online. ♦

—George Smaragdis

## Budget

### Commission Submits Budget Proposal for 2003

On February 28, 2002, the Commission sent its fiscal year 2003 budget proposal to Congress and the Office of Management and Budget (OMB). The proposal requests \$46.9 million and 362 personnel for FEC operations. The Commission's appropriation for fiscal year 2002 is \$43.69 million and 362 personnel. The 2003 request represents a continuation of the 2002 funding level for core programs, as adjusted for inflation and salary and benefits. The request includes funds to account for a new method of providing for federal retirees under the Civil Service Retirement Program, which the Bush Administration has proposed

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for all government agencies as part of the federal “Freedom to Manage” initiative. Absent these funds, the 2003 appropriation request represents only a 3.6 percent increase over the Commission’s 2002 appropriation. The 2003 budget request does not account for any implementation costs for campaign finance reform legislation.

The executive summary of the budget proposal explains that, with the support of the FEC’s Congressional oversight committees, the Commission achieved major successes in 2001. For example, with the implementation of the Administrative Fine and the Alternative Dispute Resolution programs, the Commission closed 517 enforcement cases—a 152 percent increase over the annual average of 205 cases closed during fiscal years 1995

## Campaign Guides Available

For each type of committee, a *Campaign Guide* explains, in clear English, the complex regulations regarding the activity of political committees. It shows readers, for example, how to fill out FEC reports and illustrates how the law applies to practical situations.

The FEC publishes four *Campaign Guides*, each for a different type of committee, and we are happy to mail your committee as many copies as you need, free of charge. We encourage you to view them on our web site (go to [www.fec.gov](http://www.fec.gov), then click on “Campaign Finance Law Resources” and then scroll down to “Publications”).

If you would like to place an order for paper copies of the *Campaign Guides*, please call 800-424-9530, press 1, then 3.

through 2000. With mandatory electronic filing, the Commission significantly shortened the amount of time needed to process committee reports and make that information available to the public. Also during the year, the FEC issued draft technical Voting Systems Standards (VSS) designed as voluntary standards for election administration officials charged with selecting and using voting systems in federal elections. ♦

—Amy Kort

## Court Cases

### New Litigation

#### **Baker v. FEC**

On October 19, 2001, Dennis C. Baker, the treasurer for the Committee to Elect Jim Rooker to United States Congress (the Committee), filed a complaint in the U.S. District Court for the Western District of Pennsylvania. The complaint appeals a civil money penalty the Commission imposed on the Committee and Mr. Baker for failure to file the Committee’s 2000 October Quarterly Report.<sup>1</sup> The Commission found that the Committee and Mr. Baker had violated 2 U.S.C. §434(a), which requires the timely filing of reports by political committees. Mr. Baker alleges that the Committee had been “officially dissolved” at the time the report was due. In his court complaint, Mr. Baker asks that the court review the Commission’s September 21, 2001, final determination and modify or set aside that determination.

U.S. District Court for the Western District of Pennsylvania, Civil Action No. 01-1965. ♦

—Amy Kort

<sup>1</sup> The Commission’s assessment of the \$900 civil money penalty was published in the January 2002 Record, page 13.

## Advisory Opinions

### AO 2002-1

#### **Presidential Public Funding for Coalition of Minor Parties**

Under the Presidential Election Campaign Fund Act (the Fund Act), the entitlement for pre-general election Presidential funding in 2008 may not be determined by aggregating the 2004 vote totals of several minor party Presidential candidates. Instead, each minor party must use the vote totals received by its own Presidential candidate to determine the public funding entitlement, if any, of that party’s candidate in the next Presidential election. 26 U.S.C. §9008.

#### **The Fund Act**

Under the Fund Act, a Presidential candidate<sup>1</sup> of one or more political parties (not including a major party) is entitled to pre-general election payments if he or she was a candidate for such office in the preceding election and received between five and 25 percent of the popular vote. Additionally, the Presidential nominee of a minor party is entitled to pre-general election payments if that party’s candidate in the prior election received between five and

(continued on page 4)

<sup>1</sup> The Fund Act defines a Presidential “candidate” in this context as an individual who has been nominated by a major party to the office of President or Vice-President or has qualified to have his or her name on the ballot in at least 10 states as a party’s Presidential or Vice-Presidential candidate. 26 U.S.C. §9002(2).

## Advisory Opinions

(continued from page 3)

25 percent of the total vote.<sup>2</sup> 26 U.S.C. §9004(a)(2)(A) and (B); 11 CFR 9004.2(a) and (b). A new party or minor party can qualify for post-election funding if its candidate received at least five percent of the total vote. 26 U.S.C. §9004(a)(3). See also 11 CFR 9004.3(a).

### Funding of Multiple Candidates and Parties

Prospective 2004 minor party Presidential candidates Lenora B. Fulani and James Mangia, along with other minor party representatives, propose that pre-general election funding be distributed in 2008 to a coalition of minor parties running one or more candidates in 2004 who, in the aggregate, obtain at least five percent of the vote. The coalition's entitlement would then be redistributed to each party's 2008 candidate(s) based on the portion of the coalition's total vote that each party's candidate(s) won in 2004.

The language of the Fund Act and Commission regulations, however, describes one Presidential candidate per political party, rather than several Presidential candidates of either the same party or of multiple parties.<sup>3</sup> Moreover, in *Buckley v. Valeo*, the Supreme Court examined the legislative history of the Fund Act and deter-

<sup>2</sup> In both cases, other eligibility conditions must be met. The Fund Act defines a "minor party" as a political party whose Presidential candidate in the preceding election received, as the party's candidate, at least five percent, but less than 25 percent, of the total popular votes for all Presidential candidates in that election. 26 U.S.C. §9004(a)(3)(A).

<sup>3</sup> For example, the Fund Act defines "minor party" in terms that describe a single party with a single candidate. 26 U.S.C. §9004(2) and (a)(2)(A).

mined that "Congress' interest in not funding hopeless candidates with large sums of public money, necessarily justifies the withholding of public assistance from candidates without a significant modicum of support." 424 U.S. 1 and 96 (1976). Providing pre-general election funding to a minor party based on the prior performances of several minor party candidates within the same party, or of a group of Presidential candidates who join together in one coalition despite differing party affiliations, runs counter to these concerns. Thus, entitlement to pre-general election funding under the Fund Act may not be based on the combined vote totals of several minor party candidates.

### Convention Funding

The Commission expressed no opinion as to whether an entitlement to minor party convention funds in 2008 could be determined based on the performance of multiple minor candidates in 2004, because the issue was hypothetical. 11 CFR 112.1(b). See AO 1996-22. Only a national committee of a political party can obtain convention funding, and the advisory opinion request did not identify the national committee of a minor party that might claim the convention funds. See 26 U.S.C. §9008 and AO 2001-13 and 2000-6. Additionally, the prospect of any minor party candidate obtaining five percent of the vote in 2004 is merely speculative.

Date Issued: March 6, 2002;  
Length: 7 pages. ♦

—Amy Kort

### AO 2002-2

## Preemption of State Law Governing Lobbyist Activity on Behalf of Candidate Who is State Legislator

Eric Gally, a registered lobbyist in Maryland, may solicit contributions for a Congressional candidate who is a member of the Maryland

General Assembly despite a state law prohibiting such activity. The Federal Election Campaign Act (the Act) preempts the Maryland law with respect to the solicitation and transmittal of contributions to federal candidates and the organizational framework of federal political committees.

### Background

Mr. Gally intends to hold a private fundraiser for friends and family members in his home in order to solicit contributions to a federal candidate who is currently a member of the General Assembly. He also plans to solicit other individuals on the candidate's behalf.

Maryland law, however, bars regulated lobbyists from actively fundraising on behalf of certain state officeholders, including members of the General Assembly. Provisions of the statute prohibit lobbyists from:

- Soliciting or transmitting a political contribution to a member of the General Assembly; and

### Back Issues of the Record Available on the Internet

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- Serving on a fundraising committee or political committee of a candidate who is a member of the General Assembly. Md. Code Ann., State Gov't §15-714(d)(1)(i) and (ii) (2001).

Staff counsel for the Maryland State Ethics Commission has interpreted these restrictions to mean that regulated lobbyists may not actively fundraise on behalf of a candidate for U.S. Congress if that candidate is also a member of the General Assembly. Additionally, the State Ethics Commission found, in informal consideration, that the prohibition applied to the solicitation and transmittal of contributions by a regulated lobbyist to such a candidate.

### The Act and Commission Regulations

The Act and Commission regulations “supersede and preempt any provision of State law with respect to election to Federal office.” 2 U.S.C. §453; 11 CFR 108.7(a). According to the Conference Committee report on the 1974 Amendments to the Act, “Federal law occupies the field with respect to criminal sanctions relating to limitations on campaign expenditures, the sources of campaign funds used in Federal races, the conduct of Federal campaigns, and similar offences, but does not affect the States’ rights” as to other election-related conduct, such as voter fraud and ballot theft. H.R. Rep. No. 93-1438, 93<sup>rd</sup> Cong. 2d Sess. 69 and 100-101 (1974).

Commission regulations provide that federal law supersedes state law with respect to federal candidates and political committees in regards to the organization and registration of committees, the disclosure of receipts and expenditures and the limitations on contributions and

expenditures. 11 CFR 108.7(b).<sup>1</sup> They also provide that the Act does not supersede state laws concerning electoral matters, such as the manner in which candidates and parties qualify for the ballot and the date and location of elections. 11 CFR 108.7(c). See also AOs 2001-19, 2001-12, 2000-23 and 1999-12.

### Preemption

As applied to Mr. Gally’s proposed fundraising activities for a federal candidate, the Maryland prohibitions concerning the solicitation and transmittal of contributions and service on a political or fundraising committee (thereby administering such solicitations) address activities reserved for regulation under federal law. The Act and Commission regulations govern the sources of funds used in federal races, prohibiting and limiting contributions and solicitations by various entities.<sup>2</sup> Moreover, they specifically cover Mr. Gally’s proposed solicitation activities by the application of specific exceptions to the definition of “contribution” for an individual’s volunteer services and for a volunteer’s use of his or her home for campaign-related activities—including up to \$1,000 per election for food, beverages and invitations. 2 U.S.C.

<sup>1</sup> See Federal Election Commission Regulations, Explanation and Justification, *House Document No. 95-44*, at 51. See also, *H.R. Rep. No. 93-1438*, 93<sup>d</sup> Cong., 2d Sess. 100-101 (1974).

<sup>2</sup> For example, the Act and Commission regulations prohibit any person from soliciting contributions from a foreign national or federal contractor. 2 U.S.C. §§441e(a) and 441c(a)(2); 11 CFR 110.4(a)(2) and 115.2(c). Also, a trade association that has not received prior authorization from a corporate member cannot solicit that member’s personnel for PAC contributions. 2 U.S.C. §441b(b)(4)(D); 11 CFR 114.8(c) and (d).

§431(8)(B)(i) and (ii); 11 CFR 100.7(b)(3), (4) and (6). The Act and Commission regulations also address the transmittal of contributions. For example, they prohibit transmittal by certain persons and set a time period in which a person who receives a contribution for a political committee must transmit it to the committee. 2 U.S.C. §432(b); 11 CFR 102.6(b)(1), 110.6(b)(2)(ii) and 102.8. Thus, the Act and Commission regulations supersede this Maryland provision as applied to Mr. Gally’s proposed solicitation and transmittal of contributions.

To the extent that Mr. Gally’s activities can be construed as serving on a fundraising or political committee, the application of the Maryland prohibition against lobbyists serving on an Assembly member’s Congressional campaign committee would result in the state regulation of an area reserved for federal coverage—the organization of a political committee.<sup>3</sup> This area of federal coverage would serve as an additional basis for preemption of that Maryland prohibition.

Date Issued: March 6, 2002;  
Length: 6 pages. ♦

—Amy Kort

### Advisory Opinion Requests

#### [AOR 2002-3](#)

Qualification as state committee of political party (Green Party of Ohio, March 7, 2002)

#### [AOR 2002-4](#)

Official name and abbreviated name of SSF (Austin, Nichols & Co., Inc./Pernod Ricard USA) ♦

<sup>3</sup> See for example 11 CFR 110.4(a)(3), which prohibits foreign nationals from participating in the decision-making process of a political committee with regard to its election-related activities.

# Statistics

## Congressional Campaign Fundraising Declines in 2001

Congressional campaigns raised \$294.9 million in 2001, 7.4 percent less than in 1999, the last non-election year. The 2001 figures represent the first decline in off-year fundraising since the Commission first began compiling off-year financial totals in 1987. The charts below show Senate and House candidates' non-election year fundraising totals for election cycles 1992 through 2002.

A drop in 2001 Senate fundraising accounts for nearly all of this decline. Senate candidates raised \$96.7 million in 2001, down 18.6 percent from 1999 levels. The disparity between 2001 and 1999 Senate fundraising may be attributable in part to the extent to which Senate races vary each cycle. In 2000, open-seat races in Florida, New York and New Jersey, as well as competitive races in other large

states, made Senate campaigns significantly more expensive than in previous years. In 2002, the closely-contested and open-seat Senate campaigns are mainly in small population states, where campaign finance activity tends to be smaller.

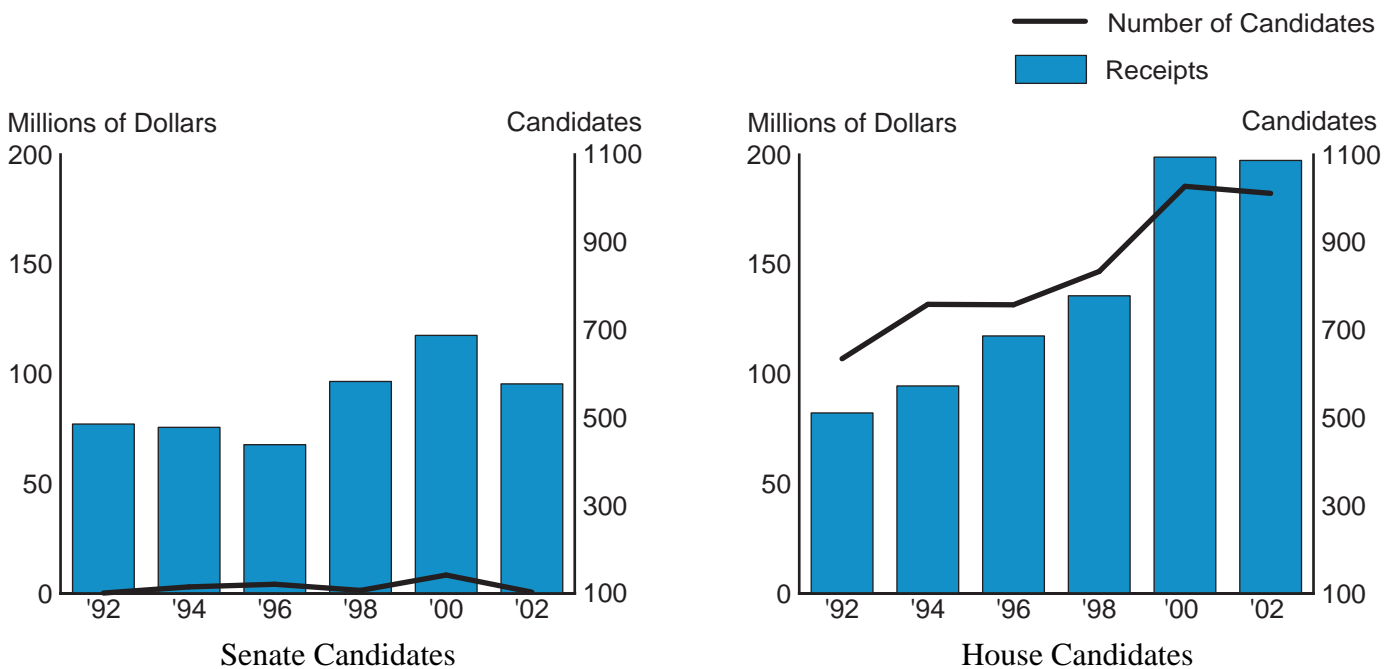
House candidates raised \$198.2 million in 2001, a decline of just under one percent from 1999 levels. Significantly, House fundraising failed to rise despite ongoing reapportionment and redistricting efforts following the 2000 census. This process generally creates more uncertainty about district boundaries and more open-seat House campaigns, both of which usually result in more fundraising by candidates. For example, House campaign receipts in 1991, the last post-census year, increased by 26 percent over 1989 receipts. Slowed fundraising for House candidates in 2001 is most apparent among Democratic challengers, with both the number of candidates and amounts raised significantly lower in 2001.

A press release dated March 12, 2002, provides detailed information about Congressional fundraising and spending, including a top 50 list for Senate and House campaigns for receipts, disbursements, cash-on-hand, debts and major sources of receipts. The press release is available:

- On the FEC web site at [www.fec.gov/news.html](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 616). ♦

—Amy Kort

Congressional Candidate Off-Year Fundraising—1992-2002



### Party Financial Activity Continues to Grow

Financial activity by the Democratic and Republican parties increased during 2001. The parties raised \$243.7 million in federal funds (hard money) and spent \$195.1 million during the year. These figures represent a 22 percent increase in party fundraising and a fifteen percent increase in disbursements over the totals from 1999, the last non-election year. When compared to activity from 1997, the most recent non-election year with no Presidential campaign, party fundraising increased by 40 percent and spending grew by 20 percent.

As in past years, Republican national party committees raised and spent more federal funds than did Democratic national party committees. The Republicans raised \$166.3 million, a 31 percent increase over their federal receipts from 1999. The Democrats raised \$77.4 million, an eight percent increase over 1999

receipts. In 2001 Republicans spent \$128.5 million and Democrats spent \$66.6 million in federal funds, showing an increase over 1999 spending of sixteen percent and fourteen percent, respectively.

Year-end reports filed with the FEC also showed increased receipts and disbursements of nonfederal funds (soft money) during the year. Republican national party committees raised \$100.1 million in nonfederal funds during 2001, a 68 percent increase from 1999. The Republicans spent \$88.9 million in nonfederal funds in 2001, a 110 percent increase above totals from 1999.

The Democratic national party committees raised \$68.6 million in nonfederal funds and spent \$47.9 million, representing a 26 percent increase in nonfederal activity over their 1999 totals.

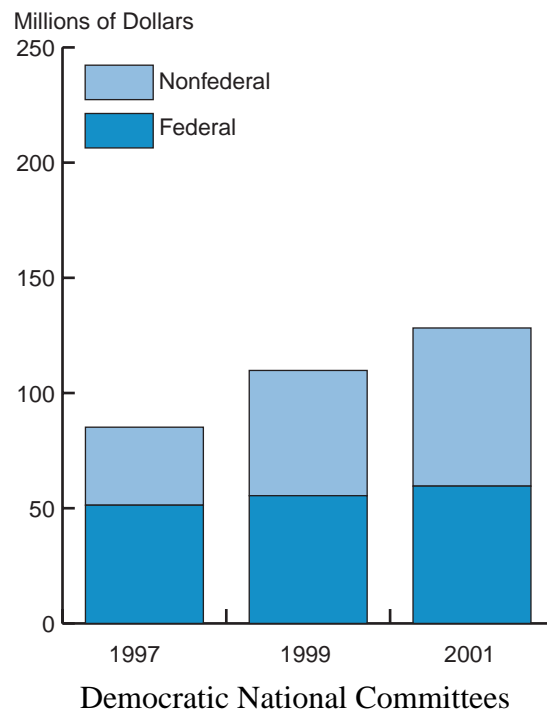
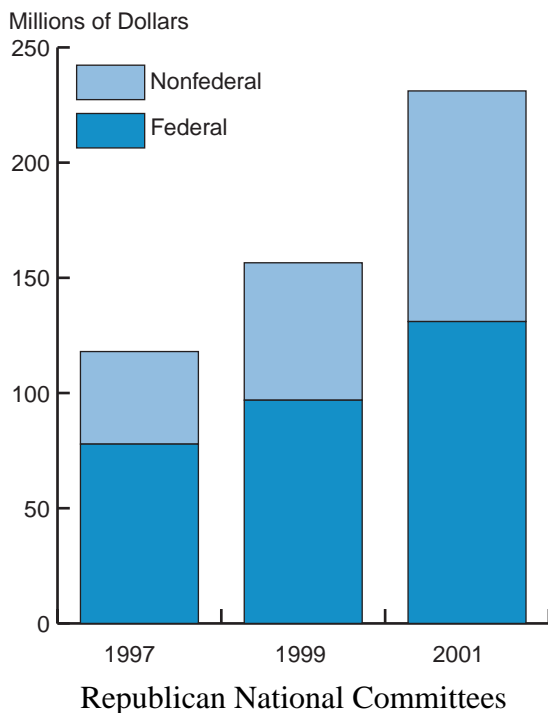
The charts below show the Republican and Democratic parties' federal and nonfederal receipts for the off-election years of the past

three election cycles. Complete statistics describing 2001 party activity are available in a press release dated February 21, 2002. The press release is available:

- On the FEC web site at [www.fec.gov/news.html](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 615). ♦

—Amy Kort

### Federal and Nonfederal Party Receipts for Non-Election Years



## Audits

### Audit of Gejdenson Reelection Committee

On January 25, 2002, the Commission approved the final audit report on the Gejdenson Reelection Committee (GRC). The report found that between January 1, 1999, and December 31, 2000, GRC received excessive contributions and misstated financial activity.

#### Excessive Contributions

The audit identified apparent excessive contributions from 74 individuals, totaling \$66,518. Under the Federal Election Campaign Act, no person may make contributions to any federal campaign in excess of \$1,000 per election. 2 U.S.C. §441a(a)(1)(A).

If a committee receives a contribution that appears to be excessive, the treasurer must, within 10 days, either return the contribution or deposit it and seek a redesignation or reattribution. In doing so, the committee must offer the contributor the option of a refund. If the contributor does not provide the redesignation or reattribution, the committee treasurer must, within 60 days of receipt of the contribution, refund the contribution to the contributor. 11 CFR 103.3.

The excessive contributions to the GRC may have arisen from its solicitation response cards, which stated "Each person can contribute a total of \$2,000" without further clarifying the need to designate the contribution according to two separate limits: \$1,000 for the primary election and \$1,000 for the general election. GRC did not seek or obtain within 60 days redesignations or reattributions for the excessive portion of their contributions, nor did they issue refunds. Because GRC was unable to produce evidence that the contributions were not in excess of the

limitation, the Commission recommended that GRC refund the contributions. In the absence of available funds to make the necessary refunds, GRC amended its reports to disclose the contributions requiring refunds as debts on Schedule D.

#### Misstatement of Financial Activity

A comparison of GRC's reported financial activity to its bank activity indicated that receipts and ending cash-on-hand had been misstated for calendar year 2000. In response, GRC filed comprehensive amended Summary and Detailed Summary pages for calendar year 2000. ♦

—Gary Mullen

### Audit of Citizens for Danner

On February 7, 2002, the Commission approved the final audit report on the Citizens for Danner committee (the Committee). The report found that between June 7 and December 31, 2000, the Committee:

- Received apparent prohibited contributions;
- Failed to make "best efforts" to obtain contributor identification information; and
- Failed to disclose the correct aggregate year-to-date totals for political committee contributors.

#### Prohibited Contributions

The Federal Election Campaign Act (the Act) prohibits corporations from making a contribution in connection with any federal election and prohibits federal candidates and committees from accepting such contributions. 2 U.S.C. §441b(a). When a committee receives a contribution that may be prohibited, the treasurer can either return the questionable contribution or deposit it within 10 days. If the treasurer chooses to deposit the contribution, he or she must make at least one written or oral request for evidence of the legality of the contribution.

This evidence could be a written statement from the contributor explaining why the contribution is legal or written documentation of an oral explanation. If within 30 days of the treasurer's receipt of the contribution the committee cannot confirm its legality, then the committee must refund the contribution. 11 CFR 103.3(b)(1). Any questionable contribution that is deposited into a committee's account cannot be used until its legality is confirmed. 11 CFR 103.3(b)(5).

The Committee received and deposited a total of \$13,650 from 14 contributors who were possibly incorporated entities—five of the contributors appeared to be corporations and nine were limited liability companies (LLC). Under Commission regulations, an LLC is treated as a corporation for the purposes of the Act if it elects to be treated as a corporation by the IRS or if it has publicly-traded shares. If an LLC has more than one member, has no publicly-traded shares and does not elect to be treated as a corporation by the IRS, then it is considered a partnership for the purposes of the Act. 11 CFR 110.1(g).

The Committee did not maintain a sufficient balance to cover the refund of these contributions after November 17, 2000. The Commission advised the Committee to demonstrate that the contributions in question were not from corporate sources or to refund the contributions. For the LLCs, the Committee was advised to obtain information from the contributing entities to verify that they had not elected to be treated as corporations for IRS purposes and were eligible to make the contributions. If the Committee failed to obtain evidence of the permissibility of a contribution and lacked sufficient funds to make a refund, the Committee was to disclose it as a debt until the refund was made.



### Disclosure of Occupation and Name of Employer

The Act requires political committees to identify each person who gives more than \$200 in a calendar year. 2 U.S.C. §434(b)(3)(A). Identification is defined as the name, address, occupation and employer of each individual. 2 U.S.C. §431(13)(A). Committee reports comply with the identification requirements of the Act when a committee either discloses the required information or can demonstrate that the treasurer used “best efforts” to obtain the information. To demonstrate best efforts, a committee treasurer must:

- Include in all written solicitations a statement explaining the federal law’s requirements regarding the collection and reporting of individual contributor identifications, along with a clear request for the contributor’s name, address, occupation and employer; and
- No later than 30 days after receiving a contribution that lacks the required information, make at least one attempt to obtain the information from the contributor, either by a written request or an oral request documented in writing. 2 U.S.C. §432(i) and 11 CFR 104.7(b).

During the period covered by the audit, the Committee failed to comply with the identification requirements in 119 out of 345 cases. Records show that the Committee made follow up requests for information and, in most cases, was in possession of the contributors’ occupation and/or name of employer. However, the Committee did not amend its reports to disclose this information. The Committee, which is an electronic filer, claimed to be unable to file amended reports electronically. The Commission provided the Committee with written instructions for filing the amendments, along with the Commission’s 24-hour software assistance phone number.

### Failure to Disclose Year-to-Date Totals for Political Committee Contributors

Commission regulations require that the disclosure of a contribution from a committee (including political committees and committees that do not qualify as political committees under the Act) must include the identification of the contributor and the contributor’s total aggregate year-to-date contributions. 11 CFR 104.3(a)(4)(ii). The Committee reported 24 contributions from committees where it failed to disclose the correct aggregate year-to-date totals for the contributor. In most of these cases, the Committee appeared to have assigned differing identification numbers to the same committee. The Commission recommended that the Committee file amended reports to disclose the contributions and provided it with written instructions for filing the amendments. ♦

—Amy Kort

## Compliance

### Nonfiler

The Lawrence R. Wiesner for Congress Committee failed to file its pre-primary report for the March 5, 2002, California primary elections.

On January 28, 2002, the Commission notified committees involved in California’s primary of their potential filing requirements. Committees that failed to file reports by the February 21 due date were notified on February 22 that their reports had not been received and that their names would be published if they did not respond within four business days.

The Federal Election Campaign Act requires the Commission to

### PACronyms, Other PAC Publications Available

The Commission annually publishes *PACronyms*, an alphabetical listing of acronyms, abbreviations and common names of political action committees (PACs).

For each PAC listed, the index provides the full name of the PAC, its city, state, FEC identification number and, if not identifiable from the full name, its connected, sponsoring or affiliated organization.

The index is helpful in identifying PACs that are not readily identified in their reports and statements on file with the FEC.

To order a free copy of *PACronyms*, call the FEC’s Disclosure Division at 800/424-9530 (press 3) or 202/694-1120. *PACronyms* also is available on diskette for \$1 and can be accessed free under the “Using FEC Services” icon at the FEC’s web site—<http://www.fec.gov>. Other PAC indexes, described below, may be ordered from the Disclosure Division. Prepayment is required.

- An alphabetical list of all registered PACs showing each PAC’s identification number, address, treasurer and connected organization (\$13.25).
- A list of registered PACs arranged by state providing the same information as above (\$13.25).
- An alphabetical list of organizations sponsoring PACs showing the PAC’s name and identification number (\$7.50).

The Disclosure Division can also conduct database research to locate federal political committees when only part of the committee name is known. Call the telephone numbers above for assistance or visit the Public Records Office in Washington at 999 E St., NW.

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## Compliance

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publish the names of principal campaign committees if they fail to file 12 day pre-election reports and the quarterly report due before the candidate's election. 2 U.S.C. §§437g(b) and 438(a)(7). The agency may also pursue enforcement actions against nonfilers and late filers under the Administrative Fine program on a case-by-case basis. ♦

—Amy Kort

## Outreach

### FEC Conferences in April and May

#### Conference for Corporations

On **April 22-24, 2002**, the Commission will hold a conference in Washington, D.C., for corporations. Commissioners and experienced FEC staff will conduct a series of interactive workshops in order to explain how the requirements of the federal election law apply to corporations and their political action committees (PACs). A representative from the IRS will be available to answer election-related tax questions.

The registration fee for this conference is \$375, which covers the cost of the conference, materials and meals. The registration deadline (and the deadline for fully-refunded registration cancellations) is March 29. A late registration fee of \$10 will be added effective March 30.

The conference will be held at the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW. Washington, D.C. A room rate of \$220 single or \$250 double is available for reservations made by March 29. Call 800/635-5065 or 202/484-1000 ext. 5000 to make reservations. In order to receive this room rate, you must notify the hotel that you will be attending the FEC conference. After

March 29, room rates are based on availability. The hotel can be easily reached via the L'Enfant Plaza Metro and Virginia Railway Express stations.

#### Conference for Trade Associations

The FEC will hold a conference for trade associations and their PACs **May 22-24, 2002**, in Washington, D.C. The conference will consist of a series of interactive workshops presented by Commissioners and experienced FEC staff, who will explain how the requirements of the federal election law apply to trade associations. In addition, an IRS representative will be available to answer election-related tax questions.

The registration fee for this conference is \$375, which covers the cost of the conference, materials and meals. The deadline for registration (and for fully-refunded registration cancellations) is April 28. A late registration fee of \$10 will be added effective April 29.

The conference will be held at the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW. Washington, D.C. A room rate of \$220 single or \$250 double is available for reservations made by April 28. Call 800/635-5065 or 202/484-1000 ext. 5000 to make reservations. In order to receive this room rate, you must notify the hotel that you will be attending the FEC conference. After April 28, room rates are based on availability. The hotel is located near the L'Enfant Plaza Metro and Virginia Railway Express stations.

#### Registration Information

Conference registrations will be accepted on a first-come, first-served basis. Attendance is limited, and FEC conferences have sold out in the past, so please register early. For registration information:

- Call Sylvester Management Corporation at 800/246-7277;
- Visit the FEC web site at [www.fec.gov/pages/infosvc.htm#Conferences](http://www.fec.gov/pages/infosvc.htm#Conferences);

[infosvc.htm#Conferences](http://www.fec.gov/pages/infosvc.htm#Conferences); or

- Send an e-mail to [allison@sylvestermanagement.com](mailto:allison@sylvestermanagement.com). ♦

—Amy Kort

### 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

### Conferences in 2002

For complete conference information, visit the FEC's web site at [www.fec.gov/pages/infosvc.htm#Conferences](http://www.fec.gov/pages/infosvc.htm#Conferences).

#### Conference for Corporations

Date: April 22-24, 2002  
Location: Washington, D.C.  
(Loews L'Enfant Plaza)  
Registration Fee: \$375

#### Conference for Trade Associations

Date: May 22-24, 2002  
Location: Washington, D.C.  
(Loews L'Enfant Plaza)  
Registration Fee: \$375

#### Conference for Member and Labor Organizations

Date: June 26-28, 2002  
Location: Washington, D.C.  
(Loews L'Enfant Plaza)  
Registration Fee: \$375

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 composed 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.<sup>1</sup>

Thus, if your organization qualifies as a trade association, you should attend the FEC Conference on May 22-24, 2002, which will focus on the unique rules particular

<sup>1</sup> 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 1999-16 and 1995-12 (associations for particular types 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).

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 26-28, 2002. See the upcoming issue of the *Record* for more conference details ♦

—Amy Kort

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April 1, 2002  
 Federalist Society at Southern Illinois University School of Law  
 Carbondale, IL  
 Commissioner Smith

FEDERAL ELECTION COMMISSION  
999 E Street, NW  
Washington, DC 20463

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