

# Record

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## Court Cases

### McConnell v. FEC

On December 10, 2003, the Supreme Court issued a ruling upholding the two principal features of the Bipartisan Campaign Reform Act of 2002 (BCRA): the control of soft money and the regulation of electioneering communications. The Court found unconstitutional the BCRA's ban on contributions from minors and the so-called "choice provision," which provides that a party committee cannot make both coordinated and independent expenditures on behalf of a candidate after that candidate's general election nomination.<sup>1</sup> The Supreme Court's decision affirmed in part and reversed in part the U.S. District Court for the District of Columbia's decision in this matter. See the June 2003 *Record* page 1.

### Background

Congress passed the BCRA in order to eliminate soft money donations to national parties and to ensure that electioneering communi-

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<sup>1</sup> The Court additionally ruled on a number of other challenges from the plaintiffs, including finding their challenge to the so-called Millionaire's Amendment to be nonjusticiable.

## Commissioners

### Message from the Chairman

On December 10, 2003, the Supreme Court, with only minor exceptions, upheld the constitutionality of the provisions of the Bipartisan Campaign Reform Act of 2002 (BCRA), thus opening a new era in federal campaign finance law. As this era begins, the Commission remains dedicated to providing citizens with the information needed to comply with the law, and to effective and understandable regulation and enforcement.

The Commission has long prided itself on its outreach efforts. In 2003, the Commission introduced a web searchable database of past enforcement matters, and that database will be expanded throughout 2004. The Commission will also update our web site ([www.fec.gov](http://www.fec.gov)) to be easier to use, and to include an easy reference for frequently asked questions from the public. We have scheduled our usual array of workshops and seminars in locations across the country. We will continue to explain the law through this and other publications (many of which are available on our web site or through Faxline, our automated fax-on-demand system at 202-501-

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## Commissioners

(continued from page 1)

3413), and to answer questions through our toll-free number, 800-424-9530.

In addition to its successful court defense of BCRA's substantive provisions, the Commission was pleased that the Supreme Court repeatedly cited with approval the Commission's regulations implementing BCRA. Already, the Commission has dealt with numerous Requests for Advisory Opinions interpreting BCRA, and we will continue to provide guidance through the advisory opinion process in 2004.

The Commission has, in recent years, undertaken a number of initiatives to improve the enforcement process. Programs such as Administrative Fines and Alternative Dispute Resolution have helped the Commission handle far more cases than in the past. The Commission enters 2004 in the midst of an

ongoing review of our traditional enforcement practices. This review has already led to several significant changes that have been well received in the community. At the same time, the Commission has reduced the average processing time for Matters Under Review (MURs) by over 25 percent. Total penalties assessed and collected, and the total number of large fines, have increased dramatically.

The Commission enters the post-BCRA era strong, effective, and with renewed respect. BCRA provides a new legal framework for the Commission, but our goals remain the same: to provide fair, effective enforcement of the new law, and to see that the public has available the information it needs to comply with that law.

—Bradley A. Smith  
FEC Chairman

## New Chairman and Vice Chair Elected

On December 18, 2003, the Commission elected Bradley Smith as its Chairman and Ellen Weintraub as Vice Chair for 2004.

Before joining the Commission in 2000, Chairman Smith was Professor of Law at Capital University Law School in Columbus, Ohio, where he taught Election Law, Comparative Election Law, Jurisprudence, Law & Economics and Civil Procedure. Prior to joining the faculty at Capital in 1993, he had practiced with the Columbus law firm of Vorys, Sater, Seymour & Pease, served as United States Vice Consul in Guayaquil, Ecuador, worked as a consultant in the health care field and served as General Manager of the Small Business Association of Michigan—a position in which his responsibilities included management of the organization's political action committee. Commissioner Smith received his B.A. *cum laude* from Kalamazoo College in Kalamazoo,

Michigan, and his J.D. *cum laude* from Harvard Law School.

Vice Chair Weintraub joined the Commission in 2002 and served as its Chair in 2003. Before joining the Commission, she was Of Counsel at Perkins Coie, LLP, in Washington, DC. There, she counseled clients on federal and state campaign finance laws, political ethics, nonprofit law and lobbying regulation. Prior to her work at Perkins Coie, she was Counsel to the House Committee on Standards of Official Conduct (the Ethics Committee). In that capacity, she served as editor-in-chief of the House Ethics Manual and as a principal contributor to the Senate Ethics Manual. Commissioner Weintraub received her B.A. *cum laude* from Yale College and her J.D. from Harvard Law School. ♦

—Amy Kort

## Court Cases

(continued from page 1)

cations immediately before election day are financed with regulated money and properly disclosed to the public. The BCRA, among other things:

- Bans national party committees from raising or spending money outside the limits and prohibitions of the Federal Election Campaign Act (FECA);
- Limits state and local party committees' use of such funds for activities affecting federal elections;
- Prohibits solicitations and donations by national, state and local party committees for §501(c) tax exempt organizations that make expenditures in connection with federal elections and §527 organizations that are not federal political committees or state or local party or candidates' committees;
- Prohibits federal candidates and officeholders from soliciting, receiving, directing, transferring or spending soft money in connection

**Federal Election Commission**  
999 E Street, NW  
Washington, DC 20463

800/424-9530  
202/694-1100  
202/501-3413 (FEC Faxline)  
202/219-3336 (TDD for the hearing impaired)

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**Amy Kort**, Editor

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- with federal elections and limits their ability to do so in connection with state elections;
- Bans state and local candidates and officers from raising and spending nonfederal funds for public communications that promote, attack, support or oppose a federal candidate;
  - Defines and regulates “electioneering communications;”
  - Implements the party “choice provision;”
  - Increases the hard money contribution limits;
  - Permits even higher contribution limits for candidates opposed by “millionaires” who use their own funds for campaign expenditures;
  - Defines coordination with a candidate or party committee; and
  - Bans minors from making contributions to federal candidates and political party committees.

Most provisions of the BCRA took effect on November 6, 2002. As soon as the BCRA was enacted in March 2002, however, a number of parties filed challenges to the constitutionality of several BCRA provisions, including those listed above. These cases were consolidated around *McCormack v. FEC* and heard by a three-judge panel of the U.S. District Court for the District of Columbia. On May 2, 2003, the District Court determined that certain provisions were constitutional, while a number of others were unconstitutional or nonjusticiable. The District Court issued a stay of its ruling on May 19, 2003, while the case received an expedited appellate review by the Supreme Court.

### Supreme Court Decision

*National party committees’ use of soft money.* The BCRA bans national party committees and their agents from soliciting, receiving, directing or spending any funds that are not subject to the FECA’s limits, prohibitions and reporting requirements. 2 U.S.C. §§441(a)(1) and (2).

The Court found that this provision did not violate the Constitution because the governmental interest in “preventing the actual or apparent corruption of federal candidates and officeholders” was sufficiently important to justify contribution limits. The Court noted that the “record is replete with examples of national party committees’ peddling access to federal candidates and officeholders in exchange for large soft-money donations.” The Court was also not persuaded by the plaintiffs’ argument that this provision unconstitutionally interferes with national party committees’ ability to associate with state and local committees. The Court found that nothing on the face of the provision “prohibits national party officers from sitting down with state and local party committees or candidates to plan and advise how to raise and spend soft money, so long as the national officers do not personally spend, receive, direct, or solicit soft money.”

*State and local party committees’ use of soft money.* The Court also upheld the BCRA’s limits on state and local party committees’ use of soft money for activities affecting federal elections, finding that this provision was closely drawn to match the governmental interest of preventing corruption and the appearance of corruption. 2 U.S.C. §441i(b). This provision of the BCRA provides that state and local party committees cannot use nonfederal funds to finance “federal election activity” (FEA), which is defined as:

1. Voter registration activity during the 120 days before an election;
2. Voter identification, get-out-the-vote and generic campaign activity “conducted in connection with an election in which a [federal] candidate. . . appears on the ballot;”
3. A public communication that refers to a clearly identified federal candidate and promotes,

attacks, supports or opposes that candidate; and

4. The services of a state committee employee who spends more than 25 percent of his or her compensated time on activities in connection with a federal election.

Instead, party committees must finance these activities with federal funds or, in some cases, they may finance them with a combination of federal and Levin funds, which are a new category of funds defined in the BCRA.<sup>2</sup> The Court found that Congress had “concluded from the record that soft money’s corrupting influence insinuates itself into the political process not only through national party committees, but also through state committees, which function as an alternate avenue for precisely the same corrupting forces.” The Court concluded that preventing “corrupting activity from shifting wholesale to state committees and thereby eviscerating the FECA clearly qualifies as an important governmental interest.”

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<sup>2</sup> *The limitations, restrictions and reporting requirements for raising Levin funds differ from those for raising federal funds. See 11 CFR 300.31 and 300.32(a)(4). Each state, district and local party committee has a separate Levin fund donation limit, and such committees are not considered to be affiliated for the purposes of determining Levin fund donation limits. Levin funds spent by a given state or local party committee must be raised solely by that particular committee, and these committees cannot raise Levin funds through joint fundraising efforts or accept transfers of Levin funds from other committees. Additionally, these committees cannot accept or use as Levin funds any funds that come from, or in the name of, a national party committee, federal candidate or federal officeholder. 11 CFR 300.31 and 300.34(b). For more information, see the April 2003 [Record](#) page 5, and the September 2003 [Record](#), page 1.*



## Court Cases

(continued from page 3)

The Court further determined that the fact that FEA captures some activities that affect campaigns for nonfederal office is not sufficient to render the provision unconstitutionally overbroad. Activities that are considered FEA under the BCRA were also covered by the pre-BCRA allocation rules, and the Court concluded that “[a]s a practical matter, BCRA merely codifies the FEC’s allocation regime principles while justifiably adjusting the applicable formulas in order to restore the efficacy of FECA’s longstanding restriction on contributions to state and local committees for the purpose of influencing federal elections.” The Court determined that the first two types of FEA listed above substantially benefit federal candidates by encouraging like-minded voters to go to the polls. The third type of FEA, involving public communications that support or oppose a federal candidate, directly affects the election in which the candidate is running, and the regulation of funds used for these communications is “closely drawn to the anticorruption interest it is intended to address.” Similarly, the final FEA, regarding the payment of party committee staff, is justified by Congress’ interest in preventing circumvention of the law.

Moreover, the Court found the Levin amendment to be constitutional insofar as the associational burdens created by its restrictions on transfers of Levin funds between party committees are far outweighed by the need to prevent the circumvention of the overall scheme. Additionally, the Court determined that evidence suggesting that the Levin fund restrictions might prevent parties from amassing the funds needed to make themselves heard was merely speculative.

*Party solicitations for and donations to §501(c) and §527*

*organizations.* The BCRA bans national, state and local party committees and their agents from soliciting funds for or making or directing donations to:

- §501(c) tax-exempt organizations that make expenditures in connection with federal elections; and
- §527 organizations, unless they are federal political committees or state or local party or candidate committees. 2 U.S.C. §441i(d).

The Court found the restriction on solicitations to be a valid anticircumvention measure: “Absent this provision, national, state, and local party committees would have significant incentives to mobilize their formidable fundraising apparatuses, including the peddling of access to federal officeholders, into the service of like-minded tax-exempt organizations that conduct activities benefiting their candidates.” The Court also found that the restrictions on donations were not unconstitutionally overbroad so long as the prohibition was not construed to prevent party committees from donating funds already raised in compliance with the FECA.

*Federal candidates and officeholders.* The BCRA additionally bars federal candidates and officeholders from soliciting, receiving, directing, transferring or spending soft money in connection with federal elections, and it limits their ability to do so for state and local elections. 2 U.S.C. §§441i(e)(1)(A) and (B). The Court found that these restrictions were closely drawn to prevent the corruption or the appearance of corruption of federal candidates and officeholders while at the same time accommodating these individuals’ speech and associational rights.

*State and local candidates and officeholders.* The BCRA bars state and local candidates and officeholders from raising or spending nonfederal funds to pay for public

communications that promote or attack federal candidates. 2 U.S.C. §442i(f). The Court found this to be a valid anticircumvention measure because, rather than limiting the amounts the state candidate/officeholder can spend, it merely places restrictions on the contributions that they can draw on to fund communications that directly affect federal elections. Moreover, by regulating only public communications, the provision “focuses narrowly on those soft-money donations with the greatest potential to corrupt or give rise to the appearance of corruption of federal candidates and officeholders.”

*Electioneering communications.* In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court construed the FECA’s disclosure requirements for certain entities’ independent expenditures as limited to communications expressly advocating the election or defeat of a clearly identified federal candidate. However, the BCRA defines a new category of communication—“electioneering communications”—that encompasses any broadcast, cable or satellite communication that clearly identifies a federal candidate, airs within 30 days of a federal primary or 60 days of a federal general election and is targeted to the relevant electorate. 2 U.S.C. §434(f)(3)(A)(i). The BCRA requires persons who fund electioneering communications to disclose the source of the funds in certain circumstances and bars the use of corporate and union moneys to fund the communications.

The plaintiffs argued that *Buckley v. Valeo* drew a constitutionally mandated line between express advocacy, which contains “magic words” such as “vote for” or “vote against,” and issue advocacy. The Court, however, found that the express advocacy restriction is not a constitutional command: “Both the concept of express advocacy and the class of magic words were born of

## BCRA on the FEC's Web Site

The Commission has a section on its web site ([www.fec.gov](http://www.fec.gov)) devoted to the Bipartisan Campaign Reform Act of 2002 (BCRA).

The page provides links to:

- The Federal Election Campaign Act, as amended by the BCRA;
- Summaries of major BCRA-related changes to the federal campaign finance law;
- Summaries of litigation involving challenges to the new law;
- *Federal Register* notices announcing new and revised Commission regulations that implement the BCRA;
- BCRA-related advisory opinions; and
- Information on educational outreach offered by the Commission, including upcoming Roundtable sessions and the Commission's 2004 conference schedule.

The section also allows individuals to view the Commission's calendar for rulemakings, including dates for the Notices of Proposed Rulemaking, public hearings, final rules and effective dates for regulations concerning:

- Soft money;
- Electioneering Communications;
- Contribution Limitations and Prohibitions;
- Coordinated and Independent Expenditures;
- The Millionaires' Amendment;
- Consolidated Reporting rules; and
- Other provisions of the BCRA.

The BCRA section of the web site will be continuously updated. Visit [www.fec.gov](http://www.fec.gov) and click on the BCRA icon.

an effort to avoid constitutional problems of vagueness and overbreadth in the statute before the *Buckley* Court." The Court found that the components of the definition of electioneering communication are objective and easily understood and, thus, "the vagueness objection that persuaded the *Buckley* Court to limit FECA's reach to express advocacy is inapposite here."

The Court upheld the restrictions on the use of corporate or union treasury funds to finance electioneering communications. Corporations and unions may still finance such communications through their separate segregated funds, and thus the provision does not result in an outright ban on expression. The Court rejected the plaintiffs' claims that arguments in support of the longstanding ban on express advocacy communications financed by corporations and unions cannot be applied to the larger quantity of speech captured in the definition of electioneering communication. The Court found instead that "issue ads broadcast during the 30- and 60-day periods preceding federal primary and general elections are the functional equivalent of express advocacy." The Court further explained that the "justifications for regulating express advocacy apply equally to those ads if they have an electioneering purpose, which the vast majority do."

The Court also upheld the BCRA's requirement for the disclosure of the names of persons who contributed \$1,000 or more to the individual or group paying for the communication, finding that "the evidence here did not establish the requisite reasonable probability of harm to any plaintiff group or its members resulting from compelled disclosure." The Court was also not persuaded by the plaintiffs' arguments against the requirement to disclose executory contracts for communications that have not yet

aired.<sup>3</sup> The Court determined that the probability that harm might result from requiring such disclosure was outweighed by the public's interest in obtaining full disclosure prior to the election.

"*Choice provision.*" The Court found that the BCRA's provision requiring political parties to choose between coordinated and independent expenditures on behalf of a candidate once he or she receives the party's nomination places an unconstitutional burden on the parties' right to make unlimited independent expenditures. 2 U.S.C. §441a(d)(4). The Court explained that "[a]lthough the category of burdened speech is limited to independent expenditures for express advocacy—and therefore is relatively small—it plainly is entitled to First Amendment protection. . . . The fact that the provision is cast as a choice rather than an outright prohibition on independent expenditures does not make it constitutional."<sup>4</sup>

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<sup>3</sup> The Court made a similar determination in response to the plaintiffs' challenge of the BCRA's requirement for the disclosure of certain executory contracts for independent expenditures. 2 U.S.C. §434.

<sup>4</sup> The Court also voiced concerns about the fact that for the purposes of the choice provision all political committees established and maintained by a national party and all committees established and maintained by a state party are considered a single committee. 2 U.S.C. §441a(d)(4)(B). The Court determined that as a result "it simply is not the case that each party committee can make a voluntary and independent choice between exercising its right to engage in independent advocacy and taking advantage of the increased limits on coordinated spending under §§315(d)(1)-(3). Instead, the decision resides solely in the hands of the first mover, such that a local party committee can bind both state and national parties to its chosen spending option."

## Court Cases

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**Coordination.** The BCRA extended the FECA's coordination rules governing expenditures coordinated with a candidate to those coordinated with a party committee and directed the Commission to promulgate rules that did not require "agreement or formal collaboration" in order to establish coordination. 2 U.S.C. §441a(a)(7)(B)(ii). The Court found this provision to be constitutional, noting that the absence of an agreement requirement does not render the provision unconstitutionally vague and that the plaintiffs had provided no evidence to suggest that this definition of coordination has chilled political speech.

**Contributions from minors.** The Court found the BCRA's ban on political contributions from individuals under 18 years old unconstitutional because it violates the First Amendment rights of minors.

### Additional Information

The complete text of the Supreme Court's ruling in this case is available on the FEC web site at <http://www.fec.gov/pages/bcra/litigation.htm>. ♦

—Amy Kort

## Compliance

### Enforcement Disclosure Initiatives

As part of a continuing effort to improve the public's access to and understanding of FEC compliance actions, the Commission recently implemented several disclosure initiatives, including the launch of a new searchable database and the approval of an interim policy regarding the placement of documents from closed enforcement cases on the public record. Together these initiatives represent an effort to improve the transparency of

Commission actions by raising enforcement disclosure to the same high level the Commission has sought for campaign finance reports and other public information.

### Enforcement Query System

On December 11, 2003, FEC Staff Director James Pehrkon unveiled the agency's new Enforcement Query System (EQS), a web-based search tool that allows users to find and examine public documents regarding closed Commission enforcement matters. Using current scanning, optical character recognition and text search technologies, the system permits intuitive and flexible searches of case documents and other materials. Previously, these documents were available only at the Commission's offices in Washington, and only on paper or microfilm. Users of the system can search for specific words or phrases from the text of all public case documents. They can also identify single matters under review (MURs) or groups of cases by searching additional identifying information about cases prepared as part of the Case Management System. Included among these criteria are case names and numbers, complainants and respondents, timeframes, dispositions, legal issues and penalty amounts. The Enforcement Query System may be accessed on the Commission's web site at [www.fec.gov](http://www.fec.gov).

Currently the EQS contains complete public case files for all MURs closed since January 1, 2002. In addition to adding all cases closed subsequently, staff is working to add cases closed prior to 2002. All MURs closed in 2001 will be included in the system by July 2004, and cases closed in 2000 will be available by the end of 2004. Other FEC compliance actions (Alternative Dispute Resolution cases and Administrative Fines) will also be included in the system at a later date.

### Press Release Policy

In addition, the Commission has approved an expanded structure for news releases regarding completed enforcement actions. The new structure adds explanatory material to provide a more complete description of the statutory framework of the allegations and the resolution of the matter.

### Disclosure Policy

On December 11, the Commission also approved a Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files that identifies the categories of records that will be released to the public once enforcement cases are closed. Until 2001, the FEC construed the "confidentiality provision" of the Federal Election Campaign Act (2 U.S.C. 437g(a)(12)(A)) regarding enforcement matters as ending with the termination of a case. In *AFL-CIO v. FEC*, 177 F. Supp. 2d. 48 (D.D.C. 2001), however, the district court disagreed with this interpretation and, as a result, the Commission placed on the public record only those documents that reflected the agency's "final determination" with respect to enforcement matters. The Court of Appeals for the D.C. Circuit affirmed the judgment of the district court but suggested that some flexibility in release of documents would be permissible. On December 4, 2003, the Department of Justice decided not to ask the U.S. Supreme Court to hear the case.

Consistent with the appeals court ruling, the new FEC policy provides for the release of additional documents when enforcement cases are closed. These will include original complaints or internal FEC referrals that initiate enforcement actions, along with reports and briefs from the Office of General Counsel (OGC) and responses to those reports and briefs by respondents. The Policy Statement is an interim



## 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 at [www.fec.gov/pages/pacronym.htm](http://www.fec.gov/pages/pacronym.htm).

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.

measure, and the Commission intends to conduct a rulemaking in 2004 to address materials to be placed on the public record. The Policy Statement is available on the Commission's web site at <http://www.fec.gov/agenda/agenda20031211.html#03-100>.

### Enforcement Profile

In addition to enhancing its disclosure programs, the Commissioners also recently examined the agency's "Enforcement Profile," which reviews the impact of measures taken by the FEC to improve the focus and speed of processing enforcement actions, including:

- The Enforcement Priority System, implemented in 1993, which classifies and prioritizes cases based on complexity and importance;
- The Administrative Fine program that removes routine late and non-filing matters from the full enforcement process; and
- The Alternative Dispute Resolution program that manages matters that are "less serious breeches of law" but that are not "simple" late and nonfiler issues.

The Enforcement Profile found, among other things, that:

- The total number of cases closed has increased substantially since 2000;
- The total amounts of fines and penalties assessed have increased steadily and substantially since 1999;
- The percentage of cases closed with substantive action increased by more than 20 percent during 2001-2003 when compared with the period 1995-2000;
- OGC has reduced the average and median number of days required to close a substantive case by 18 percent and 28 percent, respectively, even though a greater proportion of cases have dealt with more complex issues; and

- A greater number of reporting violations have been resolved as a result of the Administrative Fine and ADR programs.

These changes, coupled with new programs and internal management controls, allow the Commission to focus its legal resources on more complex enforcement matters while using administrative processes to handle less complex matters, which, in turn, speeds the disposition of cases and the public's access to information about Commission compliance matters. ♦

—Amy Pike

## MUR 5229: Collecting Agent's Failure to Transfer Contributions

The Commission recently entered into conciliation agreements with New York's Health and Human Service Union 1199/SEIU, AFL-CIO<sup>1</sup> (1199), two of its separate segregated funds and Service Employees International Union Political Campaign Committee (SEIU COPE), resulting in \$262,500 in civil penalties. The conciliation agreements primarily resolve violations of the Federal Election Campaign Act (the Act) stemming from 1199's failure to transfer timely to its separate segregated funds and its international union's separate segregated fund political contributions collected from 1199's members. This cumulative civil penalty is the largest ever assessed in an enforcement matter arising from the review of political committee disclosure reports by the Commission's Reports Analysis Division.

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<sup>1</sup> 1199 is also known as *Local 1199NY, Service Employees International Union and frequently known as 1199, the National Health and Human Service Employees Union.*

## Compliance

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### Background

Under the Act, a labor organization may not make contributions or expenditures in connection with federal elections. However, it may establish and administer an SSF and solicit contributions to the SSF from the union's members and their families. 2 U.S.C. §441b(b)(2)(c). The SSF may only accept funds that are within the Act's limit and prohibitions, and these funds may not be commingled with union dues and assessments. 11 CFR 102.5(a).

The union may also support its SSF by acting as a "collecting agent." Under Commission regulations, a collecting agent is an organization or committee that collects and transmits contributions to an SSF to which the collecting agent is related. See 11 CFR 102.6(b)(1). Contributions of less than \$50 must be forwarded to the SSF's treasurer within 30 days, and contributions over this amount must be forwarded within 10 days along with the name and address of the contributor and the date the contribution was received. 11 CFR 102.8(b)(1) and (b)(2).

The SSF is responsible for ensuring that its collecting agent complies with Commission regulations and must disclose contributions it receives through a collecting agent, along with its other financial activity, in its regularly scheduled reports. See 11 CFR 102.6(c)(1). The SSF must also report the identification of any person who makes a contribution aggregating more than \$200 during the calendar year, together with the date and amount of the contribution. 2 U.S.C. §434(b)(3).<sup>2</sup>

<sup>2</sup> For a "person" other than a natural person, identification means the person's full name and address. 2 U.S.C. §431(13)(B).

### Conciliation Agreements

On October 17, 2003, the Commission entered into a conciliation agreement with 1199, two of its SSFs, Local 1199 Federal Political Action Fund and 1199 Service Employees International Union Federal Political Action Fund, and the committees' treasurers. According to the conciliation agreements, between at least January 1997 and September 1999, 1199 collected approximately \$3.9 million in a general bank account and kept large amounts of unreported contributions in this account for many months. When 1199's leadership decided to spend money on a federal activity, the necessary funds were transferred to Local 1199 PAC and used immediately to make a contribution. After spending the funds, Local 1199 PAC would report a zero cash-on-hand balance. 1199 also transferred contributions from the general fund to other political committees, including SEIU COPE, after the 30-day transfer window had closed. As a result, over \$1.9 million in contributions were not reported in a timely fashion, and the separate segregated funds consistently understated their available cash-on-hand in reports filed with the Commission.

On December 9, 2002, the Commission entered into a conciliation agreement—prior to finding probable cause to believe that the Act had been violated—with SEIU COPE and its treasurer. This agreement settled violations of Act resulting from SEIU COPE's role in the transmittal violations by 1199 and its separate segregated funds. This agreement remained confidential until the resolution of the related action against 1199 and its separate segregated funds.

The agreements also settled violations resulting from 1199's commingling of union treasury funds with the political contributions of its members, 1199's failure to forward contributor information

to the separate segregated funds for contributions exceeding \$50, the separate segregated funds' failure to itemize contributions exceeding the \$200 threshold for itemization and other reporting violations made by 1199 Service Employees International Union Federal Political Action Fund.

Pursuant to these conciliation agreements, SEIU COPE paid \$75,000 in civil penalties, and 1199 and its SSFs paid \$187,500 in civil penalties. In addition, the respondents agreed, among other things, to cease and desist from similar violations of the Act and to have representatives attend an appropriate FEC training conference. ♦

—Amy Kort

## 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.



# Reports

## Reports Due in 2004

This article on filing requirements for 2004 is supplemented by the reporting tables on the following pages.

It is the responsibility of the committee treasurer to file required reports on time. To assist treasurers, the Commission sends committees notices of upcoming reporting deadlines. Please note that filing deadlines are not extended in cases where the filing date falls on a weekend or federal holiday. In such cases, reports filed by first-class mail, overnight delivery or courier must be received by the Commission on the business day preceding the filing date. Reports filed electronically must be received by the Commission and pass the validation test by 11:59 p.m. Eastern time on the filing date.

Under the Commission’s mandatory electronic filing regulations, individuals and organizations<sup>1</sup> 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).

Committees that file with the Secretary of the Senate<sup>2</sup> are not

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<sup>1</sup> The regulation covers individuals and organizations required to file reports with the Commission, including any person making an independent expenditure. However, these rules do not apply to persons reporting electioneering communications.

<sup>2</sup> See “Where to File” on page 11.

## Kentucky Special Election Reporting

The Special General Election to fill the U.S. House seat vacated by Representative Ernie Fletcher in the Sixth Congressional District will be held on February 17, 2004. Committees involved in this election must follow the reporting schedule below, unless they file on a monthly schedule.<sup>1</sup> PACs and party committees that file monthly should continue to file according to their regular filing schedule. Note that 48-hour notices are required of authorized committees that receive contributions of \$1,000 or more between January 29 and February 14, 2004. The 60-day electioneering communications period in connection with this election runs from December 19, 2003, through February 17, 2004.<sup>2</sup>

Committees Involved in the Special General Must File:

	Close of Books	Reg./Cert. Mail Date	Filing Date
<b>Year-End</b>		—waived—	
<b>Pre-General</b>	January 28	February 2	February 5 <sup>3</sup>
<b>Post-General</b>	March 8	March 18	March 18 <sup>4</sup>
<b>April Quarterly</b>	March 31	April 15	April 15

<sup>1</sup> Reports filed electronically must be submitted by midnight on the filing date. A committee required to file electronically that instead files on paper reporting forms will be considered a nonfiler. 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 and overnight delivery) must be received by the Commission’s close of business on the filing date.

<sup>2</sup> Individuals and other groups not registered with the FEC who make electioneering communications costing more than \$10,000 in the aggregate in the calendar year must disclose this activity to the Commission within 24 hours of the distribution of the communication. See 11 CFR 100.29 and 104.20. For more information, see the December 2003 [Record](#), page 5.

<sup>3</sup> Because disclosing financial activity from two different calendar years would conflict with the calendar-year aggregation requirements for unauthorized committees, PACs and party committees filing the Pre-General report must file this report on two separate forms. One form should cover only 2003 activity and should be labeled as the “Year-End Report.” The other form should cover only 2004 activity and should be labeled as the “Pre-General Report.” Both forms must be filed by February 5, 2004.

<sup>4</sup> The reporting period for the Post-General election report spans two election cycles. For this report only, principal campaign committees should use the Post-Election Detailed Summary Page (FEC Form 3, Pages 5-8) rather than the normal Detailed Summary Page.

## Reports

(continued from page 9)

subject to the mandatory electronic filing rules, but are encouraged to file an unofficial electronic copy of their reports with the FEC in order to speed disclosure. 11 CFR 104.18.

The Commission's electronic filing software, FECFile 5, can be downloaded from the FEC's web site at [www.fec.gov](http://www.fec.gov) (click on the Electronic Filing icon). Filers may also use commercial or privately-developed software as long as the software meets the Commission's format specifications, which are available on the Commission's web site.

Paper forms are available on the FEC's web site (<http://www.fec.gov/reporting.html>) and from FEC Faxline, the agency's automated fax system (202/501-3413). The 2004 Reporting Schedule is also available on the FEC's web site (<http://www.fec.gov/pages/report.htm>) and from Faxline (request document 586). For more information on reporting, call the FEC at 800/424-9530 (press 1, then 3) or 202/694-1100.

### Year-End Reports Covering 2003 Activity

All committees must file a 2003 year-end report due January 31, 2004. The coverage and reporting dates are found on page 13.

### Reports Covering 2004 Activity

To find out which reports your committee must file in 2004, check the Guide to 2004 Reporting on page 12. Then check the tables on page 13 for reporting dates. Please note that committees active in special elections in 2004 may have to file additional special election reports, as explained on page 13.

### Authorized Committees of Candidates

*House and Senate Candidates.* All campaigns that raise or spend more than \$5,000 (and thus trigger

registration and reporting requirements) must file quarterly reports in 2004. Under the Bipartisan Campaign Reform Act of 2002 (BCRA), principal campaign committees may no longer file on a semiannual basis in non-election years. 2 U.S.C. §434(a)(2)(B). The authorized committees of House and Senate candidates must also file pre-primary election and pre-general election reports before any election in which the candidate runs in 2004. These committees must also file a post-general election report if the candidate runs in the general election. 11 CFR 104.5(a)(2).

Committees that wish to terminate must continue filing reports until notified in writing that their termination report has been accepted by the Commission.

*Presidential Candidates.* Presidential committees active in the 2004 race that have received contributions or made expenditures aggregating \$100,000 or that anticipate this level of activity file on a monthly basis. 11 CFR 104.5(b)(1)(i) and (iii). If the candidate runs in the general election, the campaign must file pre- and post-general election reports in lieu of the November and December monthly reports. 11 CFR 104.5(b)(1)(i)(C).

Presidential committees active in the 2004 race with financial activity under \$100,000 file on a quarterly basis. They must also file pre-primary reports for the primaries in which they appear on the ballot and pre- and post-general election reports if they are candidates in the general election. 11 CFR 104.5(b)(1)(ii).

Presidential committees that are not active in 2004 but are retiring debts from previous campaigns may file on either a monthly or a quarterly schedule. A Presidential committee wishing to change its filing schedule should notify the Commission in writing. 11 CFR 104.5(b)(2).

### State, District and Local Party Committees

State, district and local party committees that engage in reportable "federal election activity" must file on a monthly schedule. 11 CFR 300.36(c)(1). Committees that do not engage in reportable "federal election activity" may file on a quarterly basis in 2004. 11 CFR 104.5(c)(1)(i).

### National Party Committees

Under the BCRA, national committees of political parties must file on a monthly schedule in all years. 2 U.S.C. §434(a)(4)(B).

### Political Action Committees

PACs (separate segregated funds and nonconnected committees) that filed on a semiannual basis during 2003 file on a quarterly basis in 2004. Monthly filers continue on the monthly schedule. PACs may change their filing schedule, but must first notify the Commission in writing. Electronic filers must file this request electronically. A committee may change its filing frequency only once a year. 11 CFR 104.5(c).

### Pre- and Post-Election Reports

Please note that in 2004, party committees and PACs that generally file monthly reports file a pre-general election report and a post-general election report in lieu of the reports otherwise due in November and December. Party committees and PACs that generally file quarterly reports file:

- A pre-primary election report and a pre-general election report before any election in which the committee makes a contribution to or an expenditure on behalf of a candidate in that election; and
- A post-general election report.

### Waiver of State Filing

Under the Commission's State Filing Waiver program, qualified states are relieved of the requirement to make paper copies of FEC reports available to the public. As a

result, political committees no longer have to file copies of their federal reports at the state level in most states.<sup>3</sup> Committees in states not certified for the waiver must continue to file copies of their reports with the appropriate state election office. The addresses for the federal offices (FEC and Secretary of the Senate) appear in the instructions for the Summary Page of FEC Forms 3 and 3X. A list of state filing offices is available from the Commission. Please note that this exemption does not apply to state filing requirements for the disclosure of state or local campaign finances.

### Where to File

Committee treasurers must file FEC reports with the appropriate federal office. State filing requirements also apply to reports filed by the principal campaign committees of candidates seeking office in Guam, Montana and Puerto Rico<sup>4</sup> and to reports filed by PACs and

<sup>3</sup> *The Commission has certified that the following states and territories qualify for filing waivers: Alabama, Alaska, American Samoa, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, U.S. Virgin Islands, Washington, West Virginia, Wisconsin and Wyoming. Guam, Montana and Puerto Rico are not currently in the State Filing Waiver Program.*

<sup>4</sup> *These requirements also apply to the principal campaign committees of Presidential candidates who make campaign-related expenditures in Guam, Montana or Puerto Rico. See 11 CFR 108.3.*

party committees who support these candidates. 2 U.S.C. §439(a)(2)(B).

#### *House Candidate Committees.*

Principal campaign committees of House candidates file with the FEC. 11 CFR 105.1.

#### *Senate Candidate Committees.*

Principal campaign committees of Senate candidates file with the Secretary of the Senate. 11 CFR 105.2.

*Presidential Committees.* Principal campaign committees of Presidential candidates file with the FEC. 11 CFR 105.3.

*Candidate Committees with More Than One Authorized Committee.* If a campaign includes more than one authorized committee, the principal campaign committee files, with its own report, the reports prepared by the other authorized committees as well as a consolidated report (FEC Form 3Z). 11 CFR 104.3(f).

#### *PACs and Party Committees.*

Generally, PACs and party committees file with the FEC. 11 CFR 105.4. However, committees supporting only Senate candidates, and the national Democratic and Republican Senatorial committees, file with the Secretary of the Senate. 11 CFR 105.

### Late Filing

The Federal Election Campaign Act does not permit the Commission to grant extensions of filing deadlines under any circumstances. Filing late reports can result in enforcement action by the Commission.

The agency pursues compliance actions against late-filers and nonfilers under the Administrative Fine program and on a case-by-case basis. For more information on the Administrative Fine program, visit the FEC web site at [www.fec.gov/adminfines1.html](http://www.fec.gov/adminfines1.html).

### Independent Expenditures

The BCRA requires political committees and other persons who make independent expenditures at any time during the calendar year—

up to and including the 20th day before an election—to disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more. This reporting requirement is in addition to the requirement to file 24-hour notices of independent expenditures each time that disbursements for independent expenditures aggregate at or above \$1,000 during the last 20 days—up to 24 hours—before an election. 2 U.S.C. §§434(b), (d) and (g). Political committees must report independent expenditures that do not trigger the 48- or 24-hour reporting thresholds on their regularly scheduled disclosure reports. Other persons report these expenditures once they exceed \$250. 11 CFR 104.4(b)(1) and 109.10(b).

All individuals, persons and committees, including Senate

*(continued on page 13)*

## FEC Accepts Credit Cards

The Federal Election Commission now accepts American Express, Diners Club and Discover Cards in addition to Visa and MasterCard. While most FEC materials are available free of charge, some campaign finance reports and statements, statistical compilations, indexes and directories require payment. Walk-in visitors and those placing requests by telephone may use any of the above-listed credit cards, cash or checks. Individuals and organizations may also place funds on deposit with the office to purchase these items. Since pre-payment is required, using credit cards or funds placed on deposit can speed the processing and delivery of orders. For further information, contact the Public Records Office at 800/424-9530 (press 3) or 202/694-1120.



## Guide to 2004 Reporting

All committees must also file a 2003 Year-End Report, due January 31, 2004.

Type of Filer	Required Reports					
	Semiannual	Quarterly	Monthly	Pre-Primary <sup>1</sup>	Pre-General	Post-General
House and Senate Campaigns		✓		✓	✓	✓
				required only if candidate runs in election		
Presidential Campaigns <sup>2</sup> Anticipating Activity of at Least \$100,000			✓		✓	✓
				required only if candidate runs in election		
Presidential Campaigns <sup>2</sup> With Activity Less Than \$100,000		✓		✓	✓	✓
				required only if candidate runs in election		
PACs and Party Committees Filing Monthly			✓		✓	✓
				filed in lieu of November and December monthly reports		
PACs and Party Committees Filing Quarterly <sup>3</sup>		✓		✓	✓	✓
				required only if committee makes contributions or expenditures in connection with election during the reporting period <sup>4</sup>		required regardless of activity

<sup>1</sup> Category also includes pre-convention and pre-runoff reports.

<sup>2</sup> Presidential committees that wish to change their filing frequency during 2004 should notify the Commission in writing.

<sup>3</sup> PACs and party committees that filed on a semiannual basis in 2003 file on a quarterly basis in 2004. To avoid the need to file pre-primary and pre-runoff reports, these committees may change to monthly filing if they first notify the Commission in writing. Committees may change filing frequency only once a year. 11 CFR 104.5(c). National party committees and state and local party committees with reportable receipts or disbursements for federal election activity must file on a monthly schedule. 11 CFR 300.36(c)(1).

<sup>4</sup> A reporting period begins with the close of books for the last report filed and ends with the closing date for the applicable report.

## Reports

(continued from page 11)

committees, must file 24- and 48-hour notices of independent expenditures with the Commission. 11 CFR 104.4, 109.10, 105.1 and 105.2.

### Committees Active in Special Elections

Committees authorized by candidates running in any 2004 special election must file pre- and post-election reports in addition to regularly scheduled reports. 11 CFR 104.5(h). They are also required to comply with the 48-hour notice requirement for contributions of \$1,000 or more (including loans) received shortly before an election. See 11 CFR 104.5(f).

PACs and party committees supporting candidates running in special elections may also have to file pre- and post-election reports—unless they file on a monthly basis. 11 CFR 104.5(c)(3) and 104.5(h). All PACs are subject to 24-hour reporting of independent expenditures made shortly before an election. See 11 CFR 104.4(b) and (c) and 104.5(g).

When timing permits, the *Record* will alert committees to special election reporting dates.

### Electioneering Communications

Additionally, individuals and other persons who make “electioneering communications”<sup>5</sup> that aggregate in excess of \$10,000 must file disclosure statements with the Commission within 24 hours of

(continued on page 18)

<sup>5</sup>“Electioneering communications” are a new category of communication under the BCRA, defined at 11 CFR 100.29. For more information, see the November 2002 *Record*, page 3, or visit the FEC web site at [http://www.fec.gov/pages/bcra/rulemakings/electioneering\\_communications.htm](http://www.fec.gov/pages/bcra/rulemakings/electioneering_communications.htm).

## 2003 Year-End Report

Note: All committees file this report.

Report	Period Covered	Filing Date <sup>1</sup>
Year-End	Closing date of last report through 12/31/03	January 31, 2004 <sup>2</sup>

## 2004 Monthly Reports

Report	Period Covered	Filing Date <sup>1</sup>
February	January 1-31	February 20
March	February 1-29	March 20 <sup>2</sup>
April	March 1-31	April 20
May	April 1-30	May 20
June	May 1-31	June 20 <sup>2</sup>
July	June 1-30	July 20
August	July 1-31	August 20
September	August 1-31	September 20
October	September 1-30	October 20
Pre-General <sup>3</sup>	October 1-13	October 21
Post-General	Oct. 14-Nov. 22	December 2
Year-End	Nov. 23-Dec. 31	January 31, 2005

## 2004 Quarterly Reports<sup>3</sup>

Report	Close of Books	Filing Date <sup>1</sup>
1st Quarter	March 31	April 15
2nd Quarter	June 30	July 15
3rd Quarter	September 30	October 15
Year-End	December 31	January 31, 2005

## Pre- and Post-Election Reports for November 2 General Election

Report	Close of Books	Filing Date <sup>1</sup>
Pre-General <sup>4</sup>	October 13	October 21
Post-General	November 22	December 2

<sup>1</sup> Reports sent by registered or certified mail must be postmarked by the filing date (except in the case of the pre-general election report; see footnote 3). Reports sent by other means must be received by the filing date. 11 CFR 104.5(e).

<sup>2</sup> Note that the filing date falls on a weekend. Filing dates are not extended when they fall on weekends or federal holidays.

<sup>3</sup> Principal campaign committees must also file a pre-primary report if the candidate is running in a primary, and all quarterly filers must file pre-primary reports before any primary in which they make a contribution or expenditure on behalf of a candidate in that primary. Primary reporting dates are listed on pages 14-17.

<sup>4</sup> If sent by registered or certified mail, the pre-general must be postmarked by October 18.

## Pre-Election Reporting Dates: 2004 Primary and Runoff Elections

State or Territory	Election Day	Close of Books <sup>†</sup>	Registered/Certified Mailing Date <sup>‡</sup>	Filing Date <sup>‡</sup>
*Alabama	June 1 Runoff: June 29	May 12 June 9	May 17 June 14	May 20 June 17
*Alaska	August 24	August 4	August 9	August 12
American Samoa	November 2 Runoff: November 16	October 13 October 27	October 18 November 4 <sup>1</sup>	October 21 November 4
*Arizona	September 7	August 18	August 23	August 26
*Arkansas	May 18 Runoff: June 8	April 28 May 19	May 3 May 24	May 6 May 27
*California	March 2	February 11	February 16 <sup>2</sup>	February 19
*Colorado	August 10	July 21	July 26	July 29
*Connecticut	August 10	July 21	July 26	July 29
Delaware	September 11	August 22	August 27	August 30
District of Columbia	September 14	August 25	August 30	September 2
*Florida	August 31	August 11	August 16	August 19

\* States holding 2004 Senate elections.

<sup>†</sup> This date indicates the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered and, if applicable, before the individual became a candidate.

<sup>‡</sup> Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

<sup>1</sup> The mailing date is the same as the filing date because the computed mail date would fall one day before the primary is held.

<sup>2</sup> Notice that this registered/certified mailing date falls on a federal holiday. The report should be postmarked before that date.



State or Territory	Election Day	Close of Books <sup>†</sup>	Registered/Certified Mailing Date <sup>‡</sup>	Filing Date <sup>‡</sup>
*Georgia	July 20 Runoff: August 10	June 30 July 21	July 5 <sup>2</sup> July 26	July 8 July 29
%Guam	September 4	August 15	August 20	August 23
*Hawaii	September 18	August 29	September 3	September 6 <sup>3</sup>
*Idaho	May 25	May 5	May 10	May 13
*Illinois	March 16	February 25	March 1	March 4
*Indiana	May 4	April 14	April 19	April 22
*Iowa	June 8	May 19	May 24	May 27
*Kansas	August 3	July 14	July 19	July 22
*Kentucky	May 18	April 28	May 3	May 6
*Louisiana	August 6 <sup>4</sup> Runoff: December 4	July 17 November 14	July 22 November 19	July 25 <sup>3</sup> November 22
Maine	June 8	May 19	May 24	May 27
*Maryland	March 2	February 11	February 16 <sup>2</sup>	February 19
Massachusetts	September 14	August 25	August 30	September 2
Michigan	August 3	July 14	July 19	July 22
Minnesota	September 14	August 25	August 30	September 2

\* States holding 2004 Senate elections.

<sup>†</sup> This date indicates the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered and, if applicable, before the individual became a candidate.

<sup>‡</sup> Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

% This state or territory is not yet part of the State Filing Waiver program.

<sup>2</sup> Notice that this registered/certified mailing date falls on a federal holiday. The report should be postmarked before that date.

<sup>3</sup> Notice that this filing deadline falls on a federal holiday. Filing dates are not extended for holidays.

<sup>4</sup> In AO 2000-29, the Commission determined that the last day to qualify for a position on the general election ballot in Louisiana—in this case August 6, 2004—must be considered the primary election date for Louisiana candidates. See 11 CFR 100.2(c)(4)(i). Additionally, under state law if no candidate in the November 2 general election receives over 50 percent of the vote, a runoff election will be held on December 4, 2004. If the runoff is held, a pre-runoff report will be due on November 22, 2004. The close of books for this report will be November 14, and the mailing date for reports sent by registered or certified mail will be November 19.

State or Territory	Election Day	Close of Books <sup>†</sup>	Registered/Certified Mailing Date <sup>‡</sup>	Filing Date <sup>‡</sup>
Mississippi	March 9 Runoff: March 30	February 18 March 10	February 23 March 15	February 26 March 18
*Missouri	August 3	July 14	July 19	July 22
%Montana	June 8	May 19	May 24	May 27
Nebraska	May 11	April 21	April 26	April 29
*Nevada	September 7	August 18	August 23	August 26
*New Hampshire	September 14	August 25	August 30	September 2
New Jersey	June 8	May 19	May 24	May 27
New Mexico	June 1	May 12	May 17	May 20
*New York	September 14	August 25	August 30	September 2
*North Carolina	May 4 Runoff: June 1	April 14 May 12	April 19 May 17	April 22 May 20
*North Dakota	June 8	May 19	May 24	May 27
*Ohio	March 2	February 11	February 16 <sup>2</sup>	February 19
*Oklahoma	July 27 Runoff: August 24	July 7 August 4	July 12 August 9	July 15 August 12
*Oregon	May 18	April 28	May 3	May 6
*Pennsylvania	April 27	April 7	April 12	April 15
%Puerto Rico	November 9, 2003	October 20, 2003	October 25, 2003	October 28, 2003
Rhode Island	September 14	August 25	August 30	September 2
*South Carolina	June 8 Runoff: June 22	May 19 June 2	May 24 June 10 <sup>1</sup>	May 27 June 10

\* States holding 2004 Senate elections.

<sup>†</sup> This date indicates the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered and, if applicable, before the individual became a candidate.

<sup>‡</sup> Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

% This state or territory is not yet part of the State Filing Waiver program.

<sup>1</sup> The mailing date is the same as the filing date because the computed mail date would fall one day before the primary is held.

<sup>2</sup> Notice that this registered/certified mailing date falls on a federal holiday. The report should be postmarked before that date.

State or Territory	Election Day	Close of Books <sup>†</sup>	Registered/Certified Mailing Date <sup>‡</sup>	Filing Date <sup>‡</sup>
*South Dakota	June 1 Runoff: June 15	May 12 May 26	May 17 May 31 <sup>2</sup>	May 20 June 3
Tennessee	August 5	July 16	July 21	July 24 <sup>4</sup>
Texas	March 9 Runoff: April 13	February 18 March 24	February 23 March 29	February 26 April 1
*Utah	June 22	June 2	June 7	June 10
*Vermont	September 14	August 25	August 30	September 2
Virginia	June 8	May 19	May 24	May 27
Virgin Islands	September 11 Runoff: September 25	August 22 September 5	August 27 September 13 <sup>1</sup>	August 30 September 13
*Washington	September 14	August 25	August 30	September 2
West Virginia	May 11	April 21	April 26	April 29
*Wisconsin	September 14	August 25	August 30	September 2
Wyoming	August 17	July 28	August 2	August 5

\* States holding 2004 Senate elections.

<sup>†</sup> This date indicates the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered and, if applicable, before the individual became a candidate.

<sup>‡</sup> Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

<sup>1</sup> The mailing date is the same as the filing date because the computed mail date would fall one day before the primary is held.

<sup>2</sup> Notice that this registered/certified mailing date falls on a federal holiday. The report should be postmarked before that date.

<sup>4</sup> Notice that this filing deadline falls on a weekend. Filing dates are not extended for weekends.



## Reports

(continued from page 13)

distribution to the public. Charts detailing the electioneering communication periods for Presidential primary elections and caucuses and Congressional primary and runoff elections are available on the FEC web site at [www.fec.gov/pages/refer.htm](http://www.fec.gov/pages/refer.htm). ♦

—Amy Kort

## Regulations

### Final Rules on Leadership PACs

On November 20, 2003, the Commission approved final rules to address the relationship between a federal candidate's authorized committee and entities that are associated with the federal candidate or officeholder but are not authorized committees, often known as leadership PACs. The final rules state that authorized committees and leadership PACs will not be considered affiliated. As a result, certain disbursements by a leadership PAC will be treated as in-kind contributions to the candidate associated with it.

### Background

In previous advisory opinions and compliance matters, the Commission examined leadership PACs whose activities were significantly intertwined with the activities of a federal candidate's authorized committee. In these circumstances, the Commission could either consider whether the leadership PAC's actions made it affiliated with the authorized committee, or the Commission could consider the committees unaffiliated and determine whether the leadership PAC made in-kind contributions to the authorized committee. The Commission declined in many of these instances to find that a leadership PAC was affiliated with a

candidate's authorized committee, even when it was apparent that the committees were controlled by the same person. See AOs 2003-12, 1984-46 and 1978-12 and MURs 3740, 2897 and 1870. See also 11 CFR 100.5(g).

### New Rules

New 11 CFR 100.5(g)(5) clarifies the relationship between an authorized committee and a leadership PAC by removing the possibility that a candidate's authorized committee can be affiliated with an entity that is not another authorized committee, even if the candidate established, financed, maintained or controlled that entity.<sup>1</sup> Thus, a leadership PAC that provides funds, goods or services to any authorized committee will make a contribution to that committee subject to the Federal Election Campaign Act's (the Act) contribution limits.<sup>2</sup>

The new regulation also applies to entities that are not political committees. Thus, for example, if a federal officeholder or candidate established an entity that was not a political committee under the Act, such as a state ballot initiative

committee, the Commission would not examine the transactions between the federal candidate/officeholder and the ballot initiative committee to determine whether that committee was affiliated with the candidate/officeholder's authorized campaign committee. See AO 2003-12. Instead, the Commission would consider whether the ballot initiative committee made in-kind contributions to the federal candidate/officeholder.

### Statement of Organization

Under the Commission's previous reporting regulation at 11 CFR 102.2(B)(1)(i), a principal campaign committee was required to disclose the names and addresses of any

## Federal Register

Federal Register notices are available from the FEC's Public Records Office, on the FEC web site at <http://www.fec.gov/register.htm> and from the FEC faxline, 202/501-3413.

### Notice 2003-22

Final Rules and Explanation and Justification on Leadership PACs (68 FR 67013, December 1, 2003).

### Notice 2003-23

Announcement of Effective Date and Corrections to Public Financing of Presidential Candidates and Nominating Conventions (68 FR 66699, November 28, 2003)

### Notice 2003-24

Final Rules and Explanation and Justification on Travel on Behalf of Candidates and Political Committees (68 FR 69583, December 15, 2003)

<sup>1</sup> This decision does not affect affiliation between an authorized committee and a joint fundraising committee under 2 U.S.C. §432(e)(3)(ii) and 11 CFR 102.13(c), nor does it affect the ability of a national party committee to be designated as the principal campaign committee for the party's Presidential nominee under 2 U.S.C. §432(e)(3)(i) and 11 CFR 102.12(c)(2).

<sup>2</sup> The Commission additionally noted that one complication in any scheme to make authorized committees and leadership PACs affiliated is that these types of committees are subject to different contribution limits and, thus, requiring them to abide by a single contribution limit would mean choosing a limitation that was not intended for one of the committees. Consequently, it is logical to view an authorized committee and a leadership PAC as separate committees.

unauthorized committees with which it was affiliated. Because the new rule eliminates the possibility of such a relationship, the Commission has revised this regulation to require only that the names and addresses of affiliated authorized committees be disclosed.

### Additional Information

The full text of the final rules and their Explanation and Justification were published in the December 1, 2003, *Federal Register* ([68 FR 67013](#)) and are available on the FEC web site at <http://www.fec.gov/register.htm>, along with the Notice of Proposed Rulemaking and public comments on this rulemaking. See the February 2003, *Record*, page 4. The final rules will take effect on December 31, 2003. ♦

—Amy Kort

## Final Rules on the Public Financing of Presidential Candidates and Nominating Conventions Take Effect

The Commission's new rules governing the public funding of Presidential campaigns and nominating conventions took effect on November 28, 2003. 11 CFR parts 9001-9039. See the *Federal Register* Announcement of Effective Date ([68 FR 66699](#), November 28, 2003). The revised rules, which the Commission approved on July 24, make a number of changes to the treatment of publicly funded Presidential campaigns and nominating conventions, including:

- Applying certain parts of the Bipartisan Campaign Reform Act of 2002 (BCRA) to Presidential nominating conventions;
- Harmonizing the rules governing municipal funds and host committees;
- Subjecting municipal funds to the same disclosure rules as host committees;
- Deleting the requirement that only "local" individuals and "local"

- entities may donate to host committees and municipal funds;
- Modifying several provisions governing the General Election Legal and Accounting Compliance Funds (GELAC);
- Limiting the use of public funds for winding down costs for primary and general election Presidential candidates; and
- Creating a new "shortfall bridge loan exemption" from a primary candidate's overall expenditure limit.

The full text of the final rules were published in the August 8, 2003, *Federal Register* ([68 FR 47386](#)) and are available on the FEC web site at <http://www.fec.gov/register.htm>. See the September 2003 *Record*, page 1, for more information. ♦

—Amy Kort

## Final Rules on Travel on Behalf of Candidates and Political Committees

On December 4, 2003, the Commission approved new and revised rules governing the rates and timing for payment for travel via non-commercial means of transportation, such as a corporate jet, on behalf political committees and candidates. The new rules establish a uniform valuation scheme for campaign travel that does not depend on whether the service provider is a corporation, labor organization, individual, partnership, limited liability company or other entity. The final rules apply to federal candidates, including publicly funded Presidential candidates, and other individuals traveling on behalf of candidates, party committees and other political committees where the travel is in connection with a federal election.

### General Rule

New 11 CFR 100.93(b) sets forth the general rule for how a person, including a corporation, partnership,

individual or other entity, may provide a candidate or political committee travel on a conveyance that is not offered for commercial passenger service.<sup>1</sup> Generally, to avoid receiving a contribution, the candidate's authorized committee must pay the service provider<sup>2</sup> for all campaign travelers<sup>3</sup> traveling on behalf of that candidate. Likewise, other political committees must pay the service provider for any campaign travelers who are traveling on their behalf. In the alternative, under the new rules a candidate or political committee may choose to receive an in-kind contribution from the service provider rather than making a reimbursement, so long as the service provider may make an in-kind contribution and the amount of the contribution does not exceed the limitations of the Federal Election Campaign Act.

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<sup>1</sup> Campaign travel on airplanes and other conveyances where commercial service is offered, such as a commercial airline or taxi, must be reimbursed at the "usual and normal charge" to avoid receiving a contribution. 11 CFR 100.52(d).

<sup>2</sup> The final rules at 11 CFR 100.93(a)(3)(ii) clarify that the "service provider" is the person making the airplane or other conveyance available to the campaign traveler or otherwise providing the transportation to the campaign traveler. Thus, a service provider may be the owner, a person leasing the airplane or other conveyance from the owner or another person with a legal right to offer the use of the airplane or other conveyance to the campaign traveler.

<sup>3</sup> The final rules at 11 CFR 100.93(a)(3)(i)(A) define "campaign traveler" to include any individual traveling in connection with a federal election on behalf of a candidate, a political party committee or any other political committee. Members of the news media are included in the definition of "campaign traveler" when they travel with a candidate.

## Regulations

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### Air Travel

The new rules apply to all airplanes not licensed by the FAA to operate for compensation or hire.<sup>4</sup> The regulations provide three valuation methods that apply in different situations, requiring:

- The lowest unrestricted and non-discounted first-class airfare available for the dates traveled, or within seven calendar days, for travel between two cities with regularly scheduled first-class airline service;<sup>5</sup>
- The lowest unrestricted and non-discounted coach airfare available for the dates traveled, or within seven calendar days, for travel between cities served by regularly scheduled coach airline service but *not* regularly scheduled first-class airline service; and

<sup>4</sup> See 14 CFR parts 121, 129, or 135. 11 CFR 100.93(a)(1).

<sup>5</sup> See *Advisory Opinion 1999-13* for a discussion of travel to a city served by first-class airline service. In addition, a special provision in 11 CFR 100.93(e) permits the use of a first-class airfare rate for travel on a government airplane to or from a military base.

### Need FEC Material in a Hurry?

Use FEC Faxline to obtain FEC material fast. It operates 24 hours a day, 7 days a week. Hundreds of FEC documents—reporting forms, brochures, FEC regulations—can be faxed almost immediately.

Use a touch tone phone to dial **202/501-3413** and follow the instructions. To order a complete menu of Faxline documents, enter document number 411 at the prompt.

- The charter rate for a comparable commercial airplane of sufficient size to accommodate all of the campaign travelers, including members of the news media, and security personnel for travel between two cities not served by regularly scheduled first-class or coach airline service, or between such a city and a different city with regularly scheduled first-class or coach commercial airline service.

The new rules do not require a campaign traveler to pay in advance of travel, but they establish a strict deadline of payment within seven calendar days of the departure of the flight. For multi-stop travel over a period of more than one day, a campaign traveler may elect to pay for separate flights at different times by calculating the separate seven-day periods for each flight departing on a different day. See new 11 CFR 100.93(c).

### Other Means of Transportation

For other means of travel not operated for commercial passenger service, such as limousines, other automobiles, trains, helicopters and buses, a political committee must pay the service provider an amount equal to the normal and usual fare or rental charge for a comparable commercial conveyance that is capable of accommodating the same number of campaign travelers, including any members of the news media, and security personnel. Payment for travel must be made thirty calendar days from the receipt of the invoice, but no more than sixty calendar days following the date the travel commenced.

### Other Issues

In addition, the new rules specify the reporting and recordkeeping requirements for candidates and political committees traveling by air or by other means. The rules also specifically address travel on government conveyances and travel

by publicly funded Presidential candidates.

### Additional Information

The full text of the final rules and their Explanation and Justification were published in the December 15, 2003, *Federal Register* ([68 FR 69583](#)) and are available on the FEC web site at <http://www.fec.gov/register.htm>. Revisions to 11 CFR parts 100, 106, 114 and 9034 take effect on January 14, 2004. The effective date for revisions to 11 CFR 9004 will be published in the *Federal Register* after the new regulations have been before Congress for 30-legislative days. ♦

—Amy Kort

## Advisory Opinions

### AO 2003-28

#### LLC's Nonconnected PAC May Become SSF

Horizon Lines Associates Good Government Fund (HLAGGF), a nonconnected committee established by an LLC owned entirely by corporations, may name its corporate parent as its connected organization and become a separate segregated fund (SSF). Alternatively, HLAGGF may opt to terminate as a nonconnected committee and be re-established by the corporate parent of the LLC as a new SSF with the same name. In either case, the LLC may pay the administrative and solicitation expenses of HLAGGF and may solicit contributions from the restricted class of its affiliates.

### Background

Horizon Lines is an LLC treated as a partnership for federal tax purposes. Through a holding company (Delian Holdings LLC), 84.5 percent of the voting interests of Horizon Lines are owned by Carlyle-Horizon Holdings Corpora-



tion (Carlyle-Horizon). The remaining voting interests are owned, through holding companies, by the CSX Corporation. Carlyle-Horizon also wholly owns a subsidiary, Horizon Lines of Puerto Rico (HLPR). Horizon Lines is the sponsoring organization for a federal nonconnected political committee, Horizon Lines Associates Good Government Fund (HLAGGF).

Horizon Lines wishes to establish an SSF for which it may pay the administrative and solicitation expenses, and for which it may solicit members of its restricted class and its affiliates, including Carlyle-Horizon and HLPR.

### Converting to SSF

The Federal Election Campaign Act (the Act) and Commission regulations provide that political committees that are established, financed, maintained or controlled by the same corporation, person or group of persons are affiliated. 2 U.S.C. §441a(a)(5); 11 CFR 100.5(g)(2) and 110.3(a)(1)(ii). The Commission has held that affiliates may include partnerships and LLCs. AO 2001-18. Also, the Commission considers organizations with a majority of ownership held by a corporation to be affiliated *per se* with the corporation. Because Carlyle-Horizon owns, through Delian Holdings, 84.5 percent of the voting interests of Horizon Lines, Carlyle-Horizon and Horizon Lines are considered *per se* affiliated.

In the past, the Commission has permitted a partnership or LLC owned entirely by corporations and affiliated with one of the corporations to pay the administrative and solicitation costs of the partnership's SSF. In such cases, the Commission required the SSF to list the affiliated corporate owners as the connected organizations. AO 2001-18. Therefore, HLAGGF may amend its Statement of Organization to identify Carlyle-Horizon as its

connected organization. As an affiliate of Carlyle-Horizon, Horizon Lines may pay HLAGGF's administrative and solicitation expenses and may solicit the restricted class of its affiliated corporations, including HLPR, for contributions to HLAGGF.

Alternatively, HLAGGF may terminate and Carlyle-Horizon (or Horizon Lines) may establish a new SSF. For purposes of the Act and Commission regulations, such an SSF would be indistinguishable from the SSF discussed above. Whether the new SSF is established by Carlyle-Horizon or by Horizon Lines, it must name Carlyle-Horizon as its connected organization, but it may retain Horizon Lines Good Government Fund as its name.

Date Issued: November 24, 2003;  
Length: 6 pages. ♦

—Gary Mullen

### AO 2003-29

### Transfer of Funds from a Nonfederal PAC to a Federal PAC of an Incorporated Membership Organization

National Fraternal Order of Police (NFOP) PAC may receive a transfer of \$5,000 from the Ohio FOP PAC, an affiliated nonfederal PAC established by one of NFOP's state lodges. The Ohio FOP PAC must take steps to ensure that the transferred funds comply with federal contribution limits and solicitation restrictions, and, as a result of the transfer, it must register with the FEC as a federal committee affiliated with NFOP PAC.

### Background

The National Fraternal Order of Police (NFOP) is an incorporated tax-exempt organization under section 501(c)(8) of the Internal Revenue Code. NFOP has a number of affiliated state organizations or "lodges." The Ohio FOP lodge has a nonfederal political committee (Ohio FOP PAC) from which it

intends to transfer \$5,000 to the federal political committee of NFOP. The money comprising the transfer was solicited for the Ohio FOP PAC and was not solicited in accord with federal law.

### Affiliation

Under federal law, political committees that are established, financed, maintained or controlled by the same person or organization are affiliated. 2 U.S.C. 441a(a)(5) and 11 CFR 100.5(g)(2). Ohio FOP is a state chapter of NFOP, and the two organizations share overlapping membership, as members of Ohio FOP are automatically members of NFOP. The organizational and membership overlap of the two organizations is sufficient for Ohio FOP to be considered a "subsidiary, branch, division, department, or local unit" of NFOP. 2 U.S.C. §441a(a)(5) and 11 CFR 100.5(g)(2). Since both committees have been established by the same membership organization (NFOP),

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

This issue of the *Record* and all other issues of the *Record* starting with January 1996 are available through the Internet as PDF files. Visit the FEC's World Wide Web site at <http://www.fec.gov> and click on "What's New" for this issue. Click "Campaign Finance Law Resources" to see back issues. Future *Record* issues will be posted on the web as well. You will need Adobe® Acrobat® Reader software to view the publication. The FEC's web site has a link that will take you to Adobe's web site, where you can download the latest version of the software for free.



## Advisory Opinions

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they are considered affiliated and, as such, may make unlimited transfers to each other. 11 CFR

100.5(g)(3)(iv) and 102.6(a).

Accordingly, the Ohio FOP PAC may make unlimited transfers to the NFOP PAC, provided the transferred funds comply with federal contribution limits and solicitation restrictions.

Additionally, since a political committee established by an incorporated membership organization qualifies as a separate segregated fund as soon as it engages in any federal activity, the Ohio FOP PAC must register with the FEC within 10 days of its transfer to the NFOP PAC.

Upon becoming a political committee, the Ohio FOP PAC must exclude any contributions not permissible under the Act from its cash on hand, which is assumed to be composed of those contributions most recently received. 11 CFR 104.12. Any contributions that are not within the limits and from sources permitted by federal law may not be included in the cash on hand.

Because the Ohio FOP PAC and NFOP PAC would become two affiliated federal PACs, they would share the same contribution limits for both contributions made and received. 2 U.S.C. 441a(a)(5) and 11 CFR 110.3(a)(1). Accordingly, the contributions of any person

included in the \$5,000 transfer must be aggregated with any contributions previously made to NFOP PAC in the same year.

### Notification of Contributors

The solicitations made by Ohio FOP PAC were not in accord with federal law, because contributors were not informed:

- That their contributions might go to support NFOP PAC;
  - Of the political purpose of NFOP PAC; and,
  - Of their right to refuse to contribute without reprisal.
- 11 CFR 114.5.

Therefore, prior to transferring funds to NFOP PAC, the Ohio FOP PAC must send written notification to the original contributors informing them that the transferred funds will be used in connection with federal elections and will be subject to the limits and prohibitions of federal law. The original contributors must also be informed of the political purpose of NFOP PAC, their right to object to the transfer of their contributions without reprisal and the proper method for submitting any objections.

After sending the notification, Ohio FOP PAC may either:

- Provide contributors a 30-day time period to submit any objections and then transfer the remaining funds when that period has expired; or
- Make the transfer at any time after sending the written notification and then honor any subsequent objections by having NFOP PAC return the funds of any objecting contributors to Ohio FOP PAC.

Date Issued: November 25, 2003;  
Length: 13 Pages. ♦

—Gary Mullen

## Advisory Opinion Requests

### AOR 2003-34

Permissibility of televised reality program depicting individuals participating in simulated Presidential campaign (Viacom, Inc., November 6, 2003)

### AOR 2003-35

Permissibility of a Presidential candidate, who applied for primary matching funds and was certified eligible, refusing public funds prior to payment date; candidate's adherence to conditions of public funding program; treatment of contributions received by such a candidate (Gephardt for President, Inc., November 5, 2003)

### AOR 2003-36

Federal candidate/officeholders' participation in fundraising activities for nonfederal committee supporting gubernatorial candidates (Republican Governors Association, November 24, 2003)

### AOR 2003-37

Permissibility of fundraising and political activities by organization established to support the election of a particular named federal candidate (Americans for a Better Country, December 2, 2003)

### AOR 2003-38

Federal candidate/officeholder raising and spending funds in connection with redistricting and reapportionment activities (Engel for Congress, December 15, 2003) ♦

## FECFile Help on Web

The manual for the Commission's FECFile 5 electronic filing software is available on the FEC's web site. You can download a PDF version of the manual at <http://www.fec.gov/electfil/electron.html>.

## Public Funding

### Commission Certifies Clark, Edwards, Gephardt and Kucinich for Primary Matching Payments

The Commission has certified that Wesley K. Clark, John R. Edwards, Richard A. Gephardt and

Dennis J. Kucinich are eligible to receive Presidential primary matching payments for their Presidential primary committees. 26 U.S.C. §9033(a) and (b); 11 CFR 9033.1 and 9033.3.

Under the Presidential Primary Matching Payment Account Act, the federal government will match up to \$250 of an individual's total contributions to an eligible Presidential primary candidate. A candidate must establish eligibility to receive matching payments by raising in excess of \$5,000 in each of at least 20 states (i.e., over \$100,000). Although an individual may contribute up to \$2,000 to a primary candidate, only a maximum of \$250 per individual applies toward the \$5,000 threshold in each state. Candidates who receive matching payments must agree to limit their spending and submit to an audit by the Commission.

No payments may be made from the Matching Payment Account before January 1 of the Presidential election year. In December 2003, the Secretary of the Treasury certified eligible candidates' full entitlements based on a review of the matching payment submissions through December 1, 2003. ♦

—Amy Kort

### Shortfall Not Expected for January Primary Matching Payments

Based on the current balance in the Presidential Election Campaign Fund (the Fund), FEC Staff expect that candidates participating in the public funding program will be paid their full entitlement on January 2, 2004. Under the Presidential Primary Matching Payment Account Act, the federal government will match up to \$250 of an individual's total contributions to an eligible

Presidential primary candidate.<sup>1</sup> Presidential candidates may make submissions for primary matching payments on the first business day of the month, but no payments may be made before January 1 of the Presidential election year. The Commission reviews submissions and forwards a certification for payment to the Treasury Department. Barring a shortfall in the Fund, a payment is wired to the committee on the first business day of the next month.

On December 1, 2003, six Presidential candidates submitted matching fund requests, which totaled over \$15 million. These requests were the first received from any candidates for the 2004 election cycle. The Fund reports a balance of \$16.7 million, after setting aside funds for general election and national convention payments.<sup>2</sup> Thus, all candidates will be paid their full entitlement on January 2, 2004.

However, a shortfall in the Fund is possible for the February 2004 payments. The amount available in February will consist of the balance remaining after the January payments and deposits made to the Fund in November and December 2003. If the payment amounts that the Commission certifies to the Treasury for the February payouts exceeds the balance in the Fund, the Treasury will make pro rata payments to the committees on February 2. Additional pro rata payments will be made in mid-February when the January deposits are posted to

<sup>1</sup> A candidate must establish eligibility to receive matching payments by raising in excess of \$5,000 in each of at least 20 states (i.e., over \$100,000). Only a maximum of \$250 per individual applies toward the \$5,000 threshold in each state.

<sup>2</sup> This amount includes deposits made to the Fund through October 2003.

the Fund. FEC Staff do not anticipate that any shortfall in the Fund will last beyond April 2004. ♦

—Amy Kort

## Election Administration

### Voting System Brochures

The Commission's Office of Election Administration has produced three new brochures on voting system usability. They are designed to meet the needs of vendors, buyers and election officials.

"Developing a User-Centered Voting System" is written for voting system developers and helps them design systems that are easier for voters to use.

"Procuring a User-Centered Voting System" is for state and local officials who need a system best suited for their constituents' needs. It helps them to identify those characteristics which make a voting system easier to use.

"Usability Testing of Voting Systems" assists both developers

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### Web Access to Senate Candidates' Campaign Finance Reports

Senate campaign finance reports are available to the public on the FEC web site. All Senate reports received after May 15, 2000, are currently accessible on the site, and the FEC will make future reports available within 48 hours of receiving them.

To view these reports, go to [www.fec.gov](http://www.fec.gov), click on "Campaign Finance Reports and Data," and then select "View Financial Reports."

## Election Administration

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and election officials in their evaluation of voting system usability. It provides guidance on how to test varied systems for ease of use.

Brochures are available through the Office of Election Administration, the Information Division or in PDF form on the Commission's web site at <http://www.fec.gov/elections.html#usability>. ♦

—Phillip Deen

## Administrative Fines

### Committees Fined for Nonfiled and Late Reports

The Commission recently publicized its final action on 64 new Administrative Fine cases, bringing the total number of cases released to the public to 833, with \$1,145,184 in fines collected by the Commission.

Civil money penalties for late reports are determined by the number of days the report was late, the amount of financial activity involved and any prior penalties for violations under the administrative fines regulations. Penalties for late reports—and for reports filed so late as to be considered nonfiled—are also determined by the financial activity for the reporting period and any prior violations. Election sensitive reports, which include reports and notices filed prior to an election (i.e., 12 day pre-election, October quarterly and October monthly reports), receive higher penalties. Penalties for 48-hour notices that are filed late or not at all are determined by the amount of the contribution(s) not timely reported and any prior violations.

The committees and the treasurers are assessed civil money penal-

### Committees Fined and Penalties Assessed

1. Akram for Congress, Inc.	\$650 <sup>1</sup>
2. American Furniture Manufacturers Association PAC	\$900
3. Bank of New York Company PAC (BNY PAC) 30 Day Post-General 2002	\$1,800
4. Bank of New York Company PAC (BNY PAC) Year-End 2002	\$550
5. Barve for Congress Committee	\$2,700
6. Bi-County PAC (formerly Suffolk PAC)	\$1,250
7. Bill Martin Congressional Committee	\$1,125
8. Bob Herriott for U.S. Congress	\$5,500
9. Colonial Bancgroup Inc. Federal PAC (Colonial Fed PAC)	\$1,000
10. Committee to Elect Frank W. Ballance, Jr.	\$500
11. Committee to Elect Ross Moen	\$1,800 <sup>1</sup>
12. Congressional Black Caucus PAC (CBC-PAC)	\$1,312
13. Cozen O'Connor PAC	\$700
14. Cynthia McKinney for Congress	\$7,050
15. Dan Blue Senate Committee	\$3,500
16. Delay for Congress	\$275
17. Dick Armev Campaign Committee	\$1,750
18. Diedrich for Congress	\$900 <sup>2</sup>
19. Dornan for Congress	\$825
20. Elect Life October Quarterly 2002	— <sup>3</sup>
21. Elect Life 30 Day Post-General 2002	— <sup>3</sup>
22. Enz for Congress	\$161
23. Florida Rock Industries Inc. Good Government Committee	\$900
24. Friends of Frank Thomas	\$325
25. Friends of George E. Irvin	\$316
26. Georgia Medical PAC	\$1,200
27. Giordano for United States Senate	— <sup>3</sup>
28. Heartland PAC (FKA Youngstown)	\$1,000
29. Herseth for Congress	\$2,900
30. International Federation of Professional and Technical Engineers Legislative Education Action Program-PAC	\$1,000
31. Iowans for Jim Leach	\$275
32. IUOE Local 542 Operating Engineers Political Action Fund	\$1,125
33. Irma Muse Dixon Congressional Campaign Committee, Inc.	\$550
34. Jay Blossman for U.S. Senate	\$3,500 <sup>1,2</sup>
35. Jim Tso for Congress	\$240
36. KPMG Partners/Principals & Employees PAC	\$3,000

<sup>1</sup>This civil money penalty has not been collected.

<sup>2</sup>This penalty was reduced due to the level of activity on the report.

<sup>3</sup>The Commission took no further action in this case.

## Committees Fined and Penalties Assessed, cont.

37. Libertarian Party of Illinois	\$7,875 <sup>1</sup>
38. Local 617 COPE Committee	\$1,800
39. Maryland Association for Concerned Citizens PAC	\$900
40. Max Burns for Congress	\$5,350
41. Mid Manhattan PAC (Mid PAC)	\$2,000
42. National Italian American PAC	\$3,600 <sup>1</sup>
43. Oz Bengur for Congress	\$4,200
44. Pearce for Congress	\$3,348
45. Philip Lowe for Congress	\$11,875 <sup>1</sup>
46. Political Action Committee of Focal Communications Corporation	\$1,800
47. The Rally for Leadership Fund	\$1,900
48. Republicans for Choice	\$2,700
49. Rhode Island Republican State Central Committee	\$743
50. Sanford D. Bishop, Jr., for Congress	\$2,025
51. S C Johnson & Son PAC (SCJPAC)	\$575
52. Sean Mahoney for Congress	\$531
53. St. Louisians for Better Government	\$1,000 <sup>1</sup>
54. Strickland for Colorado, Inc.	\$8,650
55. Summit PAC	\$4,100
56. Supporters of Engineers Local 3 Endorsed Candidates (SELEC)	\$937
57. Syed Mahmood for Congress	\$1,800 <sup>1</sup>
58. TECO Energy Inc. Employees' PAC	\$937
59. Thelen Reid & Priest PAC	\$900 <sup>1</sup>
60. United Association of Journeymen & Apprentices/Plumbing & Pipe Fitting Industry	\$1,000
61. U.S. Bancorp Political Participation Program	\$650
62. Watts for Congress	\$4,225
63. White & Case PAC	\$1,000 <sup>1</sup>
64. 15th District Democratic Party	\$1,800 <sup>1</sup>

<sup>1</sup>This civil money penalty has not been collected.

ties when the Commission makes its final determination. Unpaid civil money penalties are referred to the Department of the Treasury for collection.

The committees listed in the chart at right, along with their treasurers, were assessed civil money penalties under the administrative fines regulations.

Closed Administrative Fine case files are available through the FEC Press Office, at 800/424-9530 (press 2), and the Public Records Office, at 800/424-9530 (press 3).◆

—Amy Kort

## Alternative Dispute Resolution

### ADR Program Update

The Commission recently resolved four additional cases under the Alternative Dispute Resolution (ADR) program. The respondents, the alleged violations of the Federal Election Campaign Act (the Act) and the penalties assessed are listed below.

1. The Commission reached agreement with Friends of Dave Rogers, its treasurer Christian Winthrop and David Rogers concerning the committee's failure to file 48 hour notices. The respondents agreed to pay a \$250 civil penalty and to take steps to terminate the committee. (MUR 5326/ADR 120)

2. The Commission closed the case involving Friends of Joe Marine and its treasurer John Carlin concerning the committee's alleged failure to include required disclaimers. The ADR Office recommended the case be closed and the Commission agreed to close the file. (MUR 5332/ADR 142)

3. The Commission reached agreement with One Hundred Women Committee and Mary Ohsam, its treasurer, regarding the committee's failure to register and report. The respondents acknowledged that they unknowingly violated the Act by failing to register with the Commission after contributing more than \$1,000 to federal election campaigns, and they agreed to pay a \$750 civil penalty and to establish and maintain in the committee's offices a file on FEC regulations. (MUR 5310/ADR 129)

4. The Commission closed the case involving Central Minnesota AFL-CIO Trades Labor Assembly,

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## Alternative Dispute Resolution

(continued from page 25)

Granite City Machinists' and Mechanics' Union Local Lodge 623 and Granite City Machinists' and Mechanics' Union District Lodge 165 concerning alleged union contributions. The ADR Office recommended the case be closed and the Commission agreed to close the file. (MUR 5370/ADR 143)◆

—Amy Kort

## Outreach

### Reporting Roundtables

On January 14, 2004, the Commission will host two roundtable sessions on election year reporting, including new disclosure requirements under the Bipartisan Campaign Reform Act of 2002. The first session, for PACs and party committees, will begin at 9:30 a.m. and will last until 11:00. The second session, for candidates and their committees, will begin at 1:30 p.m. and last until 3:00. Both sessions will be followed by a half-hour reception at which each attendee will have an opportunity to meet the campaign finance analyst who reviews his/her committee's reports.

### Roundtable Schedule

Date	Subject	Intended Audience
January 14 9:30 - 11 a.m. Reception 11-11:30 a.m.	Election Year Reporting for PACs and Party Committees, plus "Meet Your Analyst" reception (Session number 0401A)	Individuals responsible for filing FEC reports for PACs and Parties (Up to 30 may attend)
January 14 1:30 - 3 p.m. Reception 3-3:30 p.m.	Election Year Reporting for Candidates and their Committees, plus "Meet Your Analyst" reception (Session number 0401B)	Individuals responsible for filing FEC reports for Candidate Committees (Up to 30 may attend)

Attendance is limited to 30 people per session, and registration (\$25) will be accepted on a first-come, first-served basis. Please call the FEC before registering or sending money to ensure that openings remain. Prepayment is required. The registration form is available on the FEC's web site at <http://www.fec.gov/pages/infosvc.htm> and from Faxline, the FEC's automated fax system (202/501-3413, request document 590). For more information, call 800/424-9530 (press 1, then 3) or 202/694-1100.◆

—Jim Wilson

### Campaign Finance Law Training Conference in Tampa, Florida

The FEC will hold a conference February 11-12, 2004, for House and Senate campaigns, political party committees and corporations, labor organizations, trade associations, membership organizations and their respective PACs. The conference will consist of a series of workshops conducted by Commissioners and experienced FEC staff who will explain how the federal campaign finance law, as amended by the Bipartisan Campaign Reform Act of 2002 (BCRA), applies to each of these groups. Workshops

will specifically address rules for fundraising and reporting, and will explain the new provisions of the BCRA. A representative from the IRS will also be available to answer election-related tax questions.

The conference will be held at the Wyndham Harbour Island Hotel in Tampa, Florida. The registration fee is \$385, which covers the cost of the conference, materials and meals. A \$10 late fee will be assessed for registration forms received after January 19.

The Wyndham Harbour Island is located at 725 South Harbour Island Boulevard. A room rate of \$159 per night is available for conference attendees who make reservations on or before January 19. To make reservations call 813/229-5000 and state that you are attending the FEC conference, or access the Wyndham

### [Conference Schedule for 2004](#)

**Conference for House and Senate Campaigns, Political Party Committees and Corporate/Labor/Trade PACs**  
February 11-12, 2004  
Tampa, FL

**Conference for House and Senate Campaigns and Political Party Committees**  
March 16-17, 2004  
Washington, DC

**Conference for Corporations and their PACs**  
April 22-23, 2004  
Washington, DC

**Conference for Trade Associations, Membership Organizations and their PACs**  
May 25-26, 2004  
Boston, MA

Harbour Island's reservations web page via the FEC web site at <http://www.fec.gov/pages/infosvc.htm#Conferences>.

### Registration

Complete conference registration information for this conference is available online. Conference registrations will be accepted on a first-come, first-served basis. FEC conferences are selling out quickly, so please register early. For registration information concerning any FEC conference:

- Call Sylvester Management Corporation at 800/246-7277;
- Visit the FEC web site at <http://www.fec.gov/pages/infosvc.htm#Conferences>; or
- Send an e-mail to [lauren@sylvestermanagement.com](mailto:lauren@sylvestermanagement.com). ♦  
—Amy Kort

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Captiva Island, FL  
Chairman Smith

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American Conference Institute  
Washington, DC  
Chairman Smith  
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January 29-31, 2004  
Campaign Disclosure Project  
San Diego, CA  
Robert Biersack

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999 E Street, NW  
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