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

Commissioners:

Caroline C. Hunter, Chair
Ellen L. Weintraub, Vice Chair
Cynthia L. Bauerly
Donald F. McGahn II
Matthew S. Petersen
Steven T. Walther

Staff Director:

Alec Palmer

General Counsel:

Anthony Herman

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by the Information Division,
Office of Communications.

Toll free 800-424-9530

Local 202-694-1100

E-mail info@fec.gov

Greg Scott, Director
Alex Knott, Sr. Writer/Editor
Myles Martin, Editor

Commission

Commission Statement on *Van Hollen v. FEC*

On March 30, 2012, the United States District Court for the District of Columbia, in *Van Hollen v. FEC*, Civ. No. 11-0766 (D.D.C. Mar. 30, 2012), found that the Commission regulation at 11 CFR 104.20(c)(9) is invalid. That regulation, which was adopted in 2007 and governed electioneering communications by corporations and labor organizations, required that their donors be disclosed only if their donations were "made for the purpose of furthering electioneering communications." The district court found that this limitation on disclosure contravened Congress's intent and noted that the Commission's pre-2007 regulation "did not add an intent requirement." *Van Hollen*, No. 11-0766, slip. op. at 25 n.8 (D.D.C. Mar. 30, 2012). On April 27, 2012, the district court vacated the regulation at 11 CFR 104.20(c)(9) and reinstated the Commission's prior regulation at 104.20(c), which was promulgated on December 17, 2002 and was in effect until December 25, 2007. *Van Hollen*, Civ. No. 11-0766 (D.D.C. Apr. 27, 2012).

Both the district court, in its April 27 ruling, and the United States Court of Appeals for the District of Columbia Circuit, *Van Hollen*, No. 12-5117 (D.C. Cir. May 14, 2012), denied motions by defendant-intervenors Center for Individual Freedom and Hispanic Leadership Fund to stay the district court's order pending appeal. [[fn1](#)]

The Commission is providing this public statement outlining how it will comply with the district court's opinion and order pending the appeal of the case:

- Effective March 30, 2012, persons making disbursements for electioneering communications should report "the name and address of each donor who donated an amount aggregating \$1,000 or more to the person making the disbursement, aggregating since the first day of the preceding calendar year."

11 CFR 104.20(c)(8) (effective Feb. 3, 2003 to Dec. 25, 2007); Explanation and Justification for Final Rules on Bipartisan Campaign Reform Act of 2002 Reporting, 68 FR 404, 419 (Jan. 3, 2003), available at <http://sers.fec.gov/fosers/showpdf.htm?docid=1024>.

- Until such time as the *Van Hollen* case is resolved on appeal or the Commission adopts a new regulation or explanation of its rules, the Commission intends to comply with the district court and D.C. Circuit's interpretation of the words "contributor" at 2 U.S.C. §434(f)(2)(F) and "donor" and "donation" in 11 CFR 104.20(c) as follows:
 - "[Contributor'] applies to all contributors regardless of their subjective purpose in contributing." *Van Hollen*, No. 12-5117, slip op. at 4 (D.C. Cir. May 14, 2012).
 - A "contributor" is "a person who gives money without expectation of service or property or legal right in return." *Van Hollen*, No. 11-0766, slip. op. at 27 (D.D.C. Mar. 30, 2012). Likewise, a "donor" making a "donation" is a person who is "providing something for nothing." *Id.* at 25 n. 8.
 - "Dues paid in return for the benefits of membership" are not "donations." *Id.*
 - "[I]nvestors who pay for shares of stock" are not "donors." *Id.*
 - "[C]ustomers who pay for goods and services" are not "donors." *Id.*
- For further guidance on 11 CFR 104.20, persons reporting electioneering communications should refer to the Commission's Explanation and Justification for Final Rules on Bipartisan Campaign Reform Act of 2002 Reporting, 68 FR 404 (Jan. 3, 2003).

Persons with specific questions regarding their reporting obligations may contact the Reports Analysis Division at (800) 424-9350 (at the prompt, press 5). Others may contact the Information Division at (800) 424-9530 (press 6).

1 Materials related to *Van Hollen v. FEC* are available at http://www.fec.gov/law/litigation/van_hollen.shtml.

(Posted 7/27/12; By: Myles Martin)

Resources:

- [Commission Statement on *Van Hollen v. FEC*](#)

Advisory Opinions

AO 2012-21 Corporations and Their PACs Disaffiliated After Spin-Off

Following a reorganization and spin-off, Primerica, Inc. and Citigroup are disaffiliated entities for the purposes of the Federal Election Campaign Act (the Act). As a result, Primerica's planned separate segregated fund (SSF) will not be affiliated with Citigroup's SSF.

Background

Primerica is a for-profit, publicly traded distributor of life insurance and financial products. It was incorporated in October 2009 by Citigroup as a holding company for the Primerica businesses, which were wholly-owned, indirect subsidiaries of Citigroup. In April 2010, Citigroup transferred these businesses to Primerica through a corporate reorganization and spun off Primerica through an initial public offering of Primerica stock. As of December 2011, Citigroup no longer owned any shares of Primerica's outstanding voting common stock.

At the time of the corporate reorganization and spin-off, Primerica and Citigroup entered into a number of agreements setting forth the terms under which assets, liabilities, tax consequences and other matters would be divided. These agreements were entered into "for the purpose of facilitating an orderly business transition during [the spin-off]." On April 1, 2010, the two companies entered into a Note Agreement, under which Primerica issued Citigroup a \$300 million note, payable at 5.5 percent interest and due March 31, 2015. Primerica explained that the Note Agreement contains standard terms and interest rates as of the time of the Agreement's execution.

Pursuant to a purchase agreement between Primerica and Citigroup, Citigroup has one representative on Primerica's Board of Directors. As one of nine members on the board, this director has the same ability to direct or to participate in Primerica's governance as do the other eight directors. Primerica and Citigroup do not otherwise have any overlapping officers or employees.

Primerica intends to form an SSF. Citigroup will not pay any of the administrative, fundraising, or operational costs associated with Primerica's SSF, nor will it provide any other form of support. Primerica asked the Commission if Primerica and Citigroup are disaffiliated under the Act.

Analysis

Under the Act and Commission regulations, political committees that are established, financed, maintained, or controlled by the same organization are affiliated. See 2 U.S.C. § 441a(a)(5); 11 CFR 100.5(g)(2), 110.3(a)(1). Certain organizations—including a corporation and its subsidiaries—are *per se* affiliated, which results in their SSFs being affiliated. See 11 CFR 100.5(g)(3)(i), 110.3(a)(2)(i). Affiliated committees are treated as a single committee and share contribution limits; thus, contributions made to or by affiliated committees are considered to have been made to or by a single committee. 2

Although Primerica and Citigroup were previously *per se* affiliated, the Commission determined that, following the reorganization and spin-off, the organizations no longer meet the criteria for *per se* affiliation. In cases where the relationship of one company to another does not constitute *per se* affiliation, the Commission will examine various factors in the context of the overall relationship to determine whether one sponsoring organization has established, financed, maintained, or controlled the other sponsoring organization or committee. See 11 CFR 100.5(g)(4)(i)-(ii), 110.3(a)(3)(i)-(ii).

In this situation, the relevant factors include whether one organization owns a controlling interest, participates in the governance or otherwise controls the decision making of the other organization. The Commission also considers common staffing, funding and political giving which would indicate a formal or ongoing relationship between the two organizations. 11 CFR 110.3(a)(3)(ii)(A-J). After analyzing these and other factors within the context of Primerica and Citigroup's relationship, the Commission concluded that Primerica and Citigroup are not affiliated.

The Commission found that Citigroup does not own a controlling interest in Primerica's voting stock or securities, and that there is no indication that Primerica owns any voting stock or securities in Citigroup or its subsidiaries. Citigroup also has minimal authority or ability to direct or participate in the governance of Primerica and will have even less authority or ability to do so for Primerica's SSF. With only one member on Primerica's board, Citigroup has minimal authority or ability to hire, appoint, demote or otherwise control Primerica's officers or other decision-making employees. Primerica and Citigroup also have no common or overlapping officers or employees; nor is there any indication that Primerica's SSF will have any common or overlapping officers or employees with Citigroup or Citigroup's SSFs.

Regarding the various spin-off agreements and the continuing Note Agreement, the Commission noted that separation agreements after spin-offs often require continuing transactions between the companies; however, the Commission has previously accepted representations that these agreements merely sort out the companies' post-spin-off obligations rather than continue one company's control. In this case, the Commission found that there was no indication of any formal or ongoing relationship between the companies since Citigroup and its SSF do not provide goods in a significant amount or on an ongoing basis to Primerica, and will not do so for Primerica's SSF. Citigroup also will not fund or provide administrative support to Primerica's SSF. Finally, although Citigroup had an active role in the formation of Primerica as it exists today, the Commission concluded that Citigroup's role in the formation of Primerica does not require a finding that the entities are affiliated.

Given the separation of business operations, the arm's length agreements setting forth the obligations of both Citigroup and Primerica at each stage of the spin-off and post-separation, and the almost total separation of leadership and personnel, the Commission concluded that the organizations are disaffiliated.

Date Issued: June 21, 2012; Length: 12 pages.

(Posted 7/10/12: By: Zainab Smith)

Resources:

- [Advisory Opinion 2012-21](#) [PDF; 12 pages]

Litigation

American Tradition Partnership, Inc. v. Bullock

On June 25, 2012, the U.S. Supreme Court reversed a decision of the Montana Supreme Court that had upheld a Montana state law prohibiting corporations from making expenditures supporting or opposing candidates or political parties. The Court held that the Montana decision was inconsistent with the high court's ruling in [*Citizens United v. Federal Election Commission* \(2010\)](#).

Montana Supreme Court Decision

Since 1912, Montana state law has prohibited corporations from making contributions or expenditures in "connection with a candidate or a political committee that supports or opposes a candidate or a political party." Under Montana law, corporations may instead establish political action committees (PACs) known as separate segregated funds in order to make political contributions or expenditures.

The federal campaign finance law includes similar provisions. However, in its January 21, 2010, decision in *Citizens United*, the U.S. Supreme Court held that, under the First Amendment, corporations could not be prohibited from expending general treasury funds in connection with federal elections, so long as those expenditures were not made in coordination or cooperation with a candidate or political party. The Court held in that case that "independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption." 558 US ____ (2010) at 42.

Notwithstanding the *Citizens United* decision, on December 30, 2011, the Montana Supreme Court held that Montana's political environment makes it "especially vulnerable to continued efforts of corporate control to the detriment of democracy and the republican form of government. Clearly Montana has unique and compelling interests to protect through preservation of this statute [prohibiting corporate expenditures in Montana state elections]." 2011 MT 328 at 22-23. Further, the Montana Supreme Court held in its opinion that the state of Montana has a compelling interest in preserving the integrity of its judicial system, under which judges are elected directly by the people in non-partisan elections.

On February 17, 2012, the U.S. Supreme Court issued a stay of the Montana decision pending the timely filing and disposition of a petition for a *writ of certiorari*.

U.S. Supreme Court Decision

On June 25, 2012, the U.S. Supreme Court reversed the Montana decision as inconsistent with the holding in *Citizens United* that "political speech does not lose First Amendment protection simply because its source is a corporation." The Court affirmed that its holding

in *Citizens United* applies to the Montana statute, writing, “There can be no serious doubt that it does [apply to the Montana statute]...Montana’s arguments in support of the judgment [in this case] were already rejected in *Citizens United*, or fail to meaningfully distinguish that case.” 567 U.S. ____ (2012).

U.S. Supreme Court No. 11-1179.

(Posted 7/10/12; By: Myles Martin)

Resources:

- [Text of U.S. Supreme Court Decision in *American Tradition Partnership, Inc. v. Bullock*](#)
- [Text of Montana Supreme Court Decision in *Western Tradition Partnership, Inc. et. al. v. Attorney General of the State of Montana et. al.*](#)

U.S. v. Danielczyk

On June 28, 2012, the U.S. Court of Appeals for the 4th Circuit upheld the ban on corporate contributions in connection with federal elections. This appellate court ruling reversed a district court decision that would have allowed corporate contributions, based on the lower court’s interpretation of the Supreme Court’s decision in [Citizens United v. FEC](#). See 558 U.S. 50 (2010).

The three-judge appeals court panel concluded that—while *Citizens United* overturned the ban on corporate expenditures—the government still may constitutionally prohibit corporate contributions under the Federal Election Campaign Act (the Act). See 2 U.S.C. § 441b(a).

Background

According to an indictment brought by the U.S. Department of Justice, in March 2007, William P. Danielczyk, Jr. and Eugene R. Biagi – who are officers of Galen Capital Group, LLC, and Galen Capital Corporation – participated in a fundraiser for Hillary Clinton’s 2008 presidential campaign in which donors gave \$156,400 with the promise that they would be reimbursed by their corporate employer.

Danielczyk and Biagi were indicted on seven counts for this contribution scheme including a charge of knowingly and willfully causing corporate money to go to a federal candidate in violation of the Act. See 2 U.S.C. § 441b(a) and 2 U.S.C. § 437g(d)(1)(A)(i).

On April 6, 2011, Danielczyk and Biagi moved to dismiss this count, contending that the Act’s ban on corporate contributions is unconstitutional. Based on its reading of *Citizens United*, the district court granted the dismissal, finding the law unconstitutional as applied to Danielczyk and Biagi.

Fourth Circuit Court of Appeals Decision

On June 28, 2012, the appeals court reversed the district court's decision stating that *Citizens United* opened the doors to corporate independent expenditures, but not to corporate contributions and corporate facilitation to federal candidates.

In support of its decision, the appeals court cited the 2003 Supreme Court decision of [FEC v. Beaumont](#) saying it "clearly supports the constitutionality" of the Act's ban on corporate campaign contributions to federal candidates. The court concluded that *Citizens United* did not undermine *Beaumont's* reasoning on this point.

U.S. District Court for Appeals for the Fourth Circuit: 11-4667

(Posted 7/11/12; By: Alex Knott)

Resources:

- [Text of U.S. Court of Appeals for the Fourth Circuit Decision in U.S. v. Danielczyk](#)

McCutcheon et al. v. FEC

On June 22, 2012, Shaun McCutcheon and the Republican National Committee (together, plaintiffs) filed suit against the Commission in the U.S. District Court for the District of Columbia challenging the Federal Election Campaign Act's (the Act) biennial limit on an individual's combined contributions to federal candidates, parties, and PACs. 2 U.S.C. §441a(a)(3)(A) and (B). The plaintiffs' suit challenges this provision as restricting Mr. McCutcheon's freedom of speech and association as guaranteed by the First Amendment.

Background

In addition to per-committee individual contribution limits, the Act limits the aggregate amount that an individual may contribute to federal candidates, parties and PACs in a two-year period. This biennial limit is adjusted for inflation in odd-numbered years. In 2011-12, the overall limit is \$117,000, of which no more than \$46,200 may be contributed to candidates and no more than \$70,800 may be contributed to party committees and PACs. Of the party committee and PAC limit, no more than \$46,200 may be contributed to state and local party committees and PACs. 2 U.S.C. §§441a(a)(3)(A) and (B).

Mr. McCutcheon previously submitted an advisory opinion request to the Commission questioning the constitutionality of the biennial limit. In Advisory Opinion 2012-14, the Commission noted that it lacked the authority to review the Act's constitutionality and was, in fact, obligated to enforce it.

Constitutional Challenge

Plaintiffs argue that §§441a(a)(3)(A) and (B) violate Mr. McCutcheon's First Amendment guarantees of free speech and association. The plaintiffs claim that the biennial aggregate contribution limit acts as an expenditure limit, restricting Mr. McCutcheon's ability to associate with the candidates, parties and PACs of his choosing.

The plaintiffs contend that the Act's individual per-committee contribution limits – \$2,500 to candidates, \$10,000 to local and state party committees, \$30,800 to national party committees, and \$5,000 to PACs – prevent the risk of individuals contributing large amounts of money to parties or PACs in order to circumvent the contribution limits to candidates. 2 U.S.C. §441a(a)(1)(A), (B), (C), and (D). The plaintiffs assert that the aggregate biennial limits burden Mr. McCutcheon's speech by limiting the number of candidates, party committees and PACs he can support.

The plaintiffs also argue that the aggregate biennial limits are unconstitutionally low and, thus, place additional restrictions on Mr. McCutcheon's ability to contribute to and associate with candidates, party committees and PACs.

The plaintiffs ask the court to preliminarily and permanently enjoin the Commission from enforcing 2 U.S.C. §441a(a)(3)(A) and (B) and to find that section of the statute unconstitutional because it burdens Mr. McCutcheon's freedom of speech rights as guaranteed by the First Amendment. Plaintiffs also ask the court to award attorneys fees for their action, together with any other relief to which they may be entitled.

(Posted 7/11/12; By: Stephanie Caccomo)

Resources:

- [McCutcheon et al. v. FEC Ongoing Litigation Page](#)
- [The Biennial Contribution Limit Brochure](#)

Free Speech v. FEC

On June 14, 2012, Free Speech filed suit in the U.S. District Court for the District of Wyoming challenging the constitutionality of the Commission's regulations, policies and practices regarding the determination of when a communication constitutes express advocacy, whether a communication is a solicitation, and whether a group is a political committee. The group seeks injunctive relief and a declaratory judgment that the rules are unconstitutional, on their face and as applied.

Background

Free Speech is a Wyoming-based, unincorporated association with a stated purpose of promoting and protecting "free speech, limited government, and constitutional accountability." The political organization plans to use individual donations to finance \$10,000

in Internet, newspaper, TV, and radio ads during the months leading up to the 2012 election. Free Speech states that it will not coordinate any of its advertising expenditures and will not accept donations from foreign nationals and federal contractors. Nor will it contribute to federal candidates, political parties, or political committees.

The lawsuit follows the Commission's May 8, 2012, response to the group's advisory opinion request. In [AO 2012-11](#), the Commission concluded that two of the 11 ads Free Speech planned to run expressly advocate the election or defeat of a federal candidate under the Act; four of the proposed advertisements do not; and two of the four proposed donation requests are not solicitations. The Commission could not approve a response by the required four votes with respect to the five remaining ads and the two remaining donation requests, nor could it approve a response as to whether Free Speech would have to register and report as a political committee. 11 CFR 100.22 and 100.5(a).

Analysis

Free Speech's suit focuses primarily on the regulatory definition of express advocacy at 11 CFR § 100.22(b). The suit argues that this regulation and related FEC rules, policies and practices abridge Free Speech's First Amendment freedoms. It also questions the Commission's interpretation and enforcement process regarding political committee status, solicitation tests, the "major purpose" test, and express advocacy determinations. See 2 U.S.C. §§ 431(4), 431(8), 441d; 11 CFR §§ 100.5(a), 100.52(a), 110.11(a).

The group's main argument consists of three parts. First, it states that the Commission's definition of express advocacy is put forth in "unclear terms leaving those who guess wrong [to be] subject to criminal or civil penalties." Secondly, it argues the Commission's political committee registration and reporting requirements are "burdensome" for all groups whose "expenditures" aggregate more than \$1,000 in a calendar year. See 2 U.S.C. § 431; 11 CFR § 100.5. Lastly, Free Speech disputes whether independent expenditures must include disclaimers and be reported to the Commission. See 2 U.S.C. § 434; 11 CFR § 104.4.

(Posted 7/11/12; By: Alex Knott)

Resources:

- [Free Speech v. FEC Ongoing Litigation Page](#)

Stop This Insanity, Inc. et al v. FEC

On July 10, 2012, Stop This Insanity, Inc. (STI), its separate segregated fund (SSF) and potential contributors filed suit in U.S. District Court for the District of Columbia challenging the Commission's application of the Federal Election Campaign Act (the Act) and its response to the organization's recent advisory opinion request (AOR).

In its AOR, STI asked if it could set up a new non-contribution account (a "Carey account") associated with its existing SSF — Stop This Insanity, Inc. Employee Leadership Fund (ELF). ELF would then solicit unlimited contributions for the Carey account from members of its restricted class, as well as other individuals, political committees, corporations and

The plaintiffs contend that the Commission's application of the Act abridges their First Amendment rights of freedom of speech and association. They seek preliminary and permanent injunctive relief and a declaratory judgment that the relevant provisions of the Act are unconstitutional, as applied.

The challenged provisions include the limits on contributions to political committees, the individual biennial contribution limit, the ban on corporate contributions and the prohibition against an SSF soliciting outside its restricted class. See 2 U.S.C. §§ 441a(a)(1) (C), 441a(a)(3), 441b(a) and 441b(b)(4)(A)(i).

According to the court filing, those provisions prohibit ELF from opening a Carey account to solicit and accept contributions exceeding the \$5,000 per year cap, and limit the source of those funds to the restricted class — i.e., STI's executive and administrative personnel and their families. See 2 U.S.C. § 441b(a) and (b)(4).

Constitutional Challenge

The plaintiffs' constitutional challenge is predicated on several recent court decisions that they believe have created precedents allowing STI's proposed political activity.

They cite the decision in [Carey v. FEC](#) (791 F. Supp. 2d 121 (D. D.C. 2011)) as a precedent to allow ELF to open a separate non-contribution account and to solicit and accept unlimited contributions from individuals, political committees, corporations and labor organizations to finance independent expenditures. The plaintiffs also cite the Supreme Court's decision in [Citizens United v. FEC](#) (130 S. Ct. 876 (2010)) and the D.C. Circuit's decisions in [SpeechNow.org v. FEC](#) (599 F.3d 686 D.C. Cir. (2010)) and [EMILY's List v. FEC](#) (581 F.3d 18 D.C. Cir. (2009)) for the proposition that ELF can solicit and receive unlimited contributions from within and outside of its restricted class to a Carey account, since all are constitutionally entitled to spend unlimited sums on independent expenditures themselves and "in conjunction with others."

(Posted 7/19/12; By: Alex Knott)

Resources:

- [Stop This Insanity, Inc. et al v. FEC Ongoing Litigation Page](#)

Public Funding

Commission Certifies Matching Funds for Roemer and Johnson

The Commission has certified payments of \$66,490.99 in federal matching funds to presidential candidate Charles E. "Buddy" Roemer III and \$130,058.91 to presidential candidate Gary Earl Johnson for the 2012 primary election. The U.S. Treasury Department transferred the amounts certified by the Commission on Tuesday, July 3.

These payments raise the total amount of federal funds certified to Roemer and Johnson to \$351,961.10 and \$230,058.91, respectively.

Roemer, the first 2012 presidential candidate to be declared eligible by the Commission to receive federal matching funds, ended his presidential campaign on May 31. He will be eligible for additional matching funds to the extent that he has debt and additional contributions eligible for matching. Johnson, the Libertarian Party candidate, became eligible for matching funds in May.

To become eligible, candidates must raise a threshold amount of \$100,000 by collecting \$5,000 in 20 different states in amounts no greater than \$250 from any individual. Other requirements to be declared eligible include agreeing to an overall spending limit, abiding by spending limits in each state, using public funds only for legitimate campaign-related expenses, keeping financial records and permitting an extensive campaign audit.

The presidential public funding program is financed through the \$3 check-off that appears on individual income tax returns. The program has three elements: grants to parties to help fund their nominating conventions, grants available to nominees to pay for the general election campaign, and matching payments to participating candidates during the primary campaign.

This cycle, the maximum amount a primary candidate could receive is currently estimated to be about \$22.8 million. The Commission has also certified \$18,248,300 each to the Republican and Democratic parties for their 2012 conventions.

(Posted 7/9/12; By: Myles Martin)

Resources:

- [FEC Press Release](#)
- [Press Office Backgrounder on Presidential Election Campaign Fund](#)
- [Brochure: Public Funding of Presidential Elections](#)
- [Brochure: The \\$3 Tax Checkoff](#)

Reporting

Michigan Special Election Reporting: 11th District

Michigan will hold a Special Primary and a Special General Election to fill the U.S. House seat in Michigan's 11th Congressional District vacated by Representative Thaddeus McCotter. The Special Primary will be held September 5, 2012, and the Special General will be held November 6, 2012.

Candidate committees involved in this election must follow the reporting schedule posted at http://www.fec.gov/pages/report_notices/2012/mi11.shtml. PACs and party committees that file on a quarterly basis in 2012 and participate in this election must also follow the reporting schedule detailed in the same website link above. PACs and party committees that file monthly should continue to file according to their regular filing schedule. Please note that the FEC does not have authority to extend filing deadlines, even when they fall on weekends or holidays.

Filing Electronically

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the applicable filing deadline. Electronic filers who instead file on paper or submit an electronic report that does not pass the Commission's validation program by the filing deadline will be considered nonfilers and may be subject to enforcement actions, including administrative fines.

Timely Filing for Paper Filers

Registered and Certified Mail. Reports sent by registered or certified mail must be post-marked on or before the mailing deadline to be considered timely filed. A committee sending its reports by registered or certified mail should keep its mailing receipt with the U.S. Postal Service (USPS) postmark as proof of filing because the USPS does not keep complete records of items sent by certified mail. 2 U.S.C. §434(a)(5) and 11 CFR 100.19 and 104.5(e).

Overnight Mail. Reports filed via overnight mail [[fn1](#)] will be considered timely filed if the report is received by the delivery service on or before the mailing deadline. A committee sending its reports by Express or Priority Mail, or by an overnight delivery service, should keep its proof of mailing or other means of transmittal of its reports. 2 U.S.C. §434(a)(5) and 11 CFR 100.19 and 104.5(e).

Other Means of Filing. Reports sent by other means—including first class mail and courier—must be received by the FEC before the Commission's close of business on the filing deadline. 11 CFR 100.19 and 104.5(e).

Forms are available for downloading and printing at the FEC's website (<http://www.fec.gov/info/forms.shtml>) and from FEC Faxline, the agency's automated fax system (202/501-3413).

48-Hour Contribution Notices

Note that 48-hour notices are required of the participating candidate's principal campaign committee if it receives any contribution of \$1,000 or more per source between August 17, 2012, and September 2, 2012, for the Special Primary and between October 18, 2012, and November 3, 2012, for the Special General.

24- and 48-Hour Reports of Independent Expenditures

Political committees and other persons must file 24-hour reports of independent expenditures that aggregate at or above \$1,000 between August 17, 2012, and September 3, 2012 for the Special Primary and between October 18, 2012, and November 4, 2012, for the Special General. This requirement is in addition to that of filing 48-hour reports of independent expenditures that aggregate \$10,000 or more during the calendar year up to and including the 20th day before an election. The 48-hour reporting requirement applies to independent expenditures that aggregate at or above \$10,000 prior to August 17, 2012, for the Special Primary. For the Special General, the 48-hour reporting requirement applies to independent expenditures that aggregate at or above \$10,000 prior to October 18, 2012.

Electioneering Communications

The 30-day electioneering communications period in connection with the Special Primary Election runs from August 6, 2012 through September 5, 2012. The 60-day electioneering communications period in connection with the Special General Election runs from September 7, 2012, through November 6, 2012.

Disclosure of Lobbyist Bundling Activity

Campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special election must simultaneously file FEC Form 3L if they receive two or more bundled contributions from any lobbyist/registrant or lobbyist/registrant PAC that aggregate in excess of \$16,700 during the special election reporting period. 11 CFR 104.22(a)(5)(v). For more information on these requirements, see the [March 2009 Record](#).

1 "Overnight mail" includes Priority or Express Mail having a delivery confirmation, or an overnight service with which the report is scheduled for next business day delivery and is recorded in the service's on-line tracking system.

(Posted 7/27/12; By: Myles Martin)

Resources:

- [Michigan 11th District Special Election Prior Notice](#)
- [Michigan 11th District Federal Register Notice](#)
- [2012 Reporting Dates](#)
- [FEC Compliance Map](#)

Statistics

FEC Summarizes 15-Month Campaign Activity for the 2012 Election Cycle



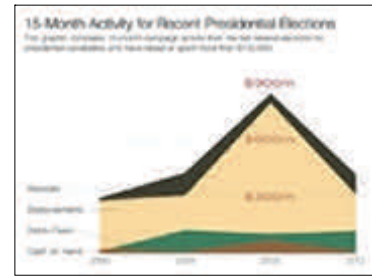
Federal candidates, parties and political action committees (PACs) collected more than \$2.9 billion and spent more than \$2 billion, between January 1, 2011 and March 31, 2012.

« Click on the image to enlarge. The larger image will open in a

Presidential Candidates

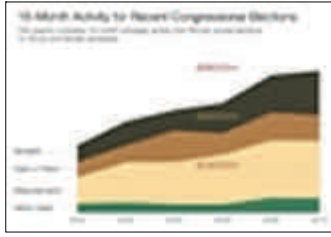
Presidential candidates reported raising \$418.9 million and spending \$312.6 million from January 1, 2011 through March 31, 2012. The total amount of debt owed by 2012 presidential candidate committees was \$13.8 million as of March 31, 2012. These candidates' combined cash-on-hand was \$120.3 million.

The graphic at right summarizes campaign finance activity of presidential candidates through the first quarter of election years since 2000. The receipt totals above include matching funds received for primary election contributions. It includes activity from January 1 of the pre-presidential election year through March 31 of the presidential election year for candidates who have raised or spent more than \$100,000.



Congressional Candidates

The 1,614 candidates running for House and Senate seats in the 2012 election cycle reported raising a total of \$884.6 million and spending \$453.5 million between January 1, 2011 and March 31, 2012.



Click on the image to enlarge.

House and Senate candidates reported combined total debts of \$97.7 million and a combined cash-on-hand of \$610.6 million as of March 31, 2012. The graphic at left summarizes election-year campaign finance activity of House and Senate candidates since 2002.

The 222 candidates running in the 33 2012 Senate races reported total receipts of \$318.3 million, disbursements of \$135.3 million, debts of \$37.3 million and cash-on-hand totaling \$224.9 million.

Campaign committees of the 1,392 House candidates reported total receipts of \$566.4 million, disbursements of \$318.3 million, debts of \$60.4 million and a combined cash-on-hand of \$385.7 million.

Political Party Committees

National, state and local political party committees reported \$658.9 million in federal receipts, \$495.4 million in disbursements, debts of \$19.2 million, and a combined cash-on-hand of \$174.4 million for the cycle as of March 31, 2012. Of those totals, other party committees—committees include leadership PACs, Independent expenditure-only committees and committees with non-contribution accounts—reported receipts of \$2.9 million, disbursements of \$2.7 million, debts of approximately \$342,000, and a combined cash-on-hand of approximately \$439,000 during the same 15-month period.

Political Action Committees (PACs)

Based on reports filed with the Commission through March 31, 2012, 5,667 federal PACs reported total receipts of \$986.4 million, disbursements of \$785.7 million, debts of \$9.6 million, and a combined cash-on-hand of \$436.8 million.

The following table summarizes campaign finance activity of PACs based on PAC type from January 1, 2011 through March 31, 2012 including nonconnected committees and separate segregated funds (SSFs).

PAC Activity from Jan. 1, 2011 through Mar. 31, 2012

(figures in millions)

PAC Type	PACs	Receipts	Disbursements	Debts Owed	Cash on Hand
Corporate	1,786	\$216.80	\$191.80	\$0.20	\$156.00
Labor	297	\$168.40	\$120.90	\$0.60	\$43.00
Nonconnected*	2,442	\$421.40	\$331.50	\$8.20	\$138.90
Trade	713	\$87.80	\$72.70	\$0.00	\$59.10
Membership	276	\$75.80	\$55.10	\$0.10	\$29.30
Cooperative	43	\$6.00	\$4.60	\$0.00	\$4.10
Corporations without Stock	<u>110</u>	<u>10.3</u>	<u>\$9.10</u>	<u>\$0.40</u>	<u>\$6.50</u>
Total**	5,556	\$986.40	\$785.70	\$9.60	\$436.80

* Nonconnected committees include leadership PACs, Independent expenditure-only committees and committees with non-contribution accounts. Independent expenditure-only committees are committees that may receive unlimited contributions from individuals, corporations, and labor unions for the purpose of financing independent expenditures and other independent political activity.

**The totals in this line may not equal the sum of the numbers in the corresponding columns as these numbers have been rounded.

Contributions by PACs to federal candidates seeking office in 2011 and 2012 totaled \$222.2 million as of March 31, 2012. PAC contributions to Senate, House and presidential candidates totaled \$42.9 million, \$178.2 million and \$1.1 million, respectively. Independent expenditure-only committees are prohibited from making contributions to candidates.

Independent Expenditures

From January 1, 2011 through March 31, 2012, all independent expenditure filings reported to the Commission totaled \$97.2 million. Independent expenditure-only committees—commonly referred to as Super PACs by the media—accounted for \$78.4 million of all independent expenditure filings received by the Commission, while committees with non-contribution accounts accounted for \$7.6 million. Independent expenditures made by other PACs, persons other than political committees and party committees totaled \$3.9 million, \$3.8 million and \$3.5 million, respectively.

Independent expenditures reported to the Commission in connection with the 2012 presidential election totaled approximately \$83.7 million as of March 31, 2012, with approximately \$71.2 million reported by independent expenditure-only committees, \$7.6 million reported by committees with non-contribution accounts and \$1.8 million reported by other PACs.

Independent expenditures advocating the election of presidential candidates totaled \$35 million, while \$48.7 million was reported to advocate the defeat of presidential candidates. Independent expenditures reported in connection with congressional races totaled \$13.6 million. Independent expenditure-only committees and party committees were the two largest sources of these expenditures, reporting \$7.3 million and \$3.4 million, respectively.

Independent expenditure-only committees reported total receipts of \$193.7 million, disbursements of \$118 million, \$3.7 million in debt, and a combined cash-on-hand of \$79.4 million.

Activity from Jan. 1, 2011 through Mar. 31, 2012

(figures in millions)

Communications Filings	Total
Independent Expenditures*	\$97.20
Electioneering Communications**	<u>\$4.3</u>
Total	\$101.50

**Independent expenditures are subject to special disclosure requirements once they reach or exceed \$10,000 with respect to a given election at any time up to and including the 20th day before an election, and once they reach or exceed \$1,000 with respect to a given election, and are made fewer than 20 days, but more than 24 hours, before an election. The totals listed include only the amounts that were reported to the Commission.*

***These totals do not include electioneering communications that were amended or newly filed in 2011 and 2012 and that disclosed disbursements from different years.*

Electioneering Communications

Electioneering communication filings totaling \$4.3 million were reported to the Commission as of March 31, 2012. An electioneering communication is a broadcast, cable or satellite communication that refers to a clearly identified federal candidate and is distributed within 30 days prior to a primary election or 60 days prior to a general election. These communications do not expressly advocate the election or defeat of a federal candidate.

Data summary tables for reports submitted to the Commission through March 31, 2012 are listed below for:

- Presidential candidate committees [link](#);
- Historical presidential candidates [link](#);

- Congressional candidate committees [link](#);
- PACs [link](#);
- PAC summary data [link](#);
- Independent expenditures [link](#);
- Political party committees [link](#); and
- Electioneering communications [link](#).

(Posted 7/12/12; By Alex Knott)

Resources:

- [FEC Press Release](#)

Compliance

Commission Cites Committees for Failure to File July Quarterly Report

The Commission cited three campaign committees for failing to file the July Quarterly Report required by the Federal Election Campaign Act (the Act).

As of July 26, 2012, the required disclosure report had not been received from:

- Jim Horn Election Committee (FL/18)
- Friends of Stephan Brodhead (WA/06)
- Alaskans4Doug (AK/00)

The report was due on July 15, 2012, and should have included financial activity for the period April 1, 2012, through June 30, 2012.

Some individuals and their committees have no obligation to file reports under federal campaign finance law, even though their names may appear on state ballots. If an individual raises or spends \$5,000 or less, he or she is not considered a "candidate" subject to reporting under the Act.

The Commission notified committees of their potential filing requirements on June 21, 2012. Those committees that did not file on the due date were sent notification on July 20, 2012 that their reports had not been received and that their names would be published if they did not respond within four business days.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, are also required to file quarterly reports, unless they report monthly. Those committee names are not published by the Commission.

Further Commission action against non-filers and late filers is decided on a case-by-case basis. Federal law gives the Commission broad authority to initiate enforcement actions, and the Commission has implemented an Administrative Fine program with provisions for assessing monetary penalties.

(Posted 7/31/2012; By: Myles Martin)

Resources:

- [FEC Non-Filer Press Release](#)
- [FEC Compliance Map](#)

Outreach

Roundtable on Pre-Election Communications

On August 28, 2012, the Commission will host a roundtable workshop to review the rules and reporting requirements for specific types of pre-election communications, including:

- Electioneering communications disseminated within 60 days of the general election;
- Independent expenditures; and
- Coordinated communications.

The presentation will also highlight recent court decisions, advisory opinions and rule-makings related to these types of communications. Attendees representing registered committees will have an opportunity to meet their Campaign Finance Analyst after the session.

Webinar Information. The workshop will be simulcast for online attendees. Additional instructions and technical information will be provided to those who register for the webinar.

In-person Attendees. Attendance is limited to 50 people. The workshop will be held at the FEC's headquarters at 999 E Street, NW, Washington, DC. The building is within walking distance of several subway stations.

Registration Information. The registration fee is \$25 to attend in-person or \$15 to participate online. A full refund will be made for all cancellations received before 5 p.m. EDT on Friday, August 24; no refund will be made for cancellations received after that time. Complete registration information is available on the FEC's website at <http://www.fec.gov/info/outreach.shtml#roundtables> and from Faxline, the FEC's automated fax system (202/501-3413, request document 590).

Registration Questions

Please direct all questions about the roundtable/webinar registration and fees to Sylvester Management at 1-800/246-7277 or email Rosalyn@sylvestermanagement.com. For other questions call the FEC's Information Division at 800/424-9530 (press 6), or send an email to Conferences@fec.gov.

(Posted 7/24/12; By: Kathy Carothers)

Resources:

- [FEC Educational Outreach Opportunities](#)
- [FEC Reporting Dates](#)
- [FECFile Software](#)