

# Record

June 2002

Federal Election Commission

Volume 28, Number 6

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## Budget

### Commission Amends Budget Request

On April 23, 2002, the Commission submitted to Congress an amended fiscal year 2003 budget request seeking an additional \$5,366,200 and 31 full-time employees in order to fund the implementation of the Bipartisan Campaign Reform Act of 2002. The Commission had originally requested an FY 2003 appropriation of \$46,917,000 and 362 full-time employees. The amended request is for a total of \$52,283,200 and 393 full-time employees.

The Commission's estimated costs for implementing the BCRA include expenses for new staff and equipment, staff training and revised publications and forms. The Commission also anticipates spending \$750,000 to acquire space to accommodate new staff. The Commission has requested this amount in an emergency FY 2002 supplemental appropriation in no-year funds. If the supplemental appropriation is received, the FY 2003 budget request amendment will be reduced accordingly. ♦

—Amy Kort

## Regulations

### Notice of Proposed Rulemaking on Soft Money

The Commission is considering new regulations to implement the soft money restrictions and prohibitions contained in the Bipartisan Campaign Reform Act of 2002 (BCRA). On May 20, 2002, the Commission published a Notice of Proposed Rulemaking (NPRM) in the *Federal Register* ([67 FR 35654](#)), seeking comments on proposed rules governing the use of nonfederal funds by parties, candidate committees and officeholders. The BCRA requires the Commission to promulgate new soft money regulations by June 25, 2002. As a result, the Commission has placed this rulemaking on an expedited schedule, and a public hearing on the NPRM is scheduled for June 4 and 5. The final rules will be published in the *Federal Register* and summarized in the *Record*.

The BCRA prohibits national party committees and federal candidates and officeholders from raising funds not subject to the prohibitions, limitations and reporting requirements of the Federal Election Campaign Act, i.e. nonfederal funds or "soft-money." It also generally requires that state,

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## Regulations

(continued from page 1)

district and local party committees fund “Federal election activity,” including voter registration and get-out-the-vote drives, either entirely with federal funds or with a combination of federal funds and “Levin funds” (a new category of funds that are subject to some requirements of the Act and the BCRA). Additionally, the BCRA addresses fundraising by federal and nonfederal candidates and officeholders on behalf of political party committees, other candidates and nonprofit organizations.

The proposed rules included in this NPRM are based on these new prohibitions and requirements. The full text of the NPRM is available on the FEC web site at <http://www.fec.gov/register.htm> and from the FEC faxline, 202/501-3413, document number 351.

### Future Rulemakings

This NPRM represents the first of a number of rulemakings that the

Commission will initiate in the coming months in order to comply with the BCRA. Future NPRMs will address:

- Electioneering communications and issue ads;
- Coordinated and independent expenditures;
- The so-called “millionaire’s amendment,” which increases the contribution limits for candidates whose opponents spend large amounts of their personal funds on the campaign;
- Increased contribution limits; and
- Other BCRA provisions, such as those governing contributions by minors and foreign nationals and those affecting reporting requirements.

The BCRA requires the Commission to promulgate these rules by December 22, 2002. ♦

—Amy Kort

### Notice of Proposed Rulemaking on Administrative Fines

Based on its experience with the Administrative Fine program, the Commission is proposing amendments to its administrative fines regulations to:

- Reduce civil money penalties for late filers and nonfilers;
- Codify its procedures for notifying respondents of RTB findings and final determinations; and
- Make a technical change to correct citations to U.S. Department of Treasury and Department of Justice regulations governing debt collection that have been revised and recodified.

On April 25, 2002, the Commission published a Notice of Proposed Rulemaking (NPRM) in the *Federal Register* (67 FR 20461), seeking comments on these proposed amendments. The NPRM also seeks comment on two other issues:

- Whether to exclude receipts and disbursements that finance non-federal activities from the current

method for calculating civil money penalties; and

- Whether to revise the regulations to state that certain defenses to reason to believe (RTB) findings are unacceptable.

The comment period closed on May 28, 2002.

### Proposed Changes to Penalty Schedules

Currently, the civil money penalty schedules for late filers have two components:

- A base amount that increases with the level of activity reflected in a report; and
- An additional per-day charge.

The civil money penalty schedules for nonfilers have a base amount that increases with the level of activity.<sup>1</sup> Penalties for both late and nonfilers increase by 25 percent for each previous violation under the administrative fines regulations.

The Commission is concerned that fines for committees with lower levels of activity may be too high. Committees with lower activity levels are often those of candidates who have lost an election and, thus, lack fundraising ability. If these committees stop filing before they are eligible to terminate, the resulting fines, which are calculated using the estimated level of activity from prior reports, can be relatively high. Such fines can create a hardship for these committees and for their treasurers, who are often volunteers and are legally liable, along with the committee, for the fines. The Commission is also concerned that the overall civil money penalty schedules may result in fines that are substantial when compared to

<sup>1</sup> *Election sensitive reports (reports filed immediately prior to an election) are considered nonfiled if they are not filed at least five days before an election. Non-election sensitive reports are considered nonfiled if they are more than 30 days late or not filed at all.*

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Director

**Jim Wilson**, Editor

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civil penalties approved in enforcement conciliation agreements for other types of violations of the Federal Election Campaign Act.

The NPRM's proposed revisions to the penalty schedules for late and nonfiled reports:

- Reduce either the base amount or the per-day charge in each activity bracket on schedules covering both election-sensitive and non-election sensitive reports;
- Split the existing brackets covering activity levels between \$1 and \$24,999.99 into three brackets in order to further reduce penalties at the lowest levels of activity; and
- Create broader brackets for activity levels of \$200,000 and above and reduce the number of brackets for activity levels over \$600,000 from five brackets to three. 11 CFR 111.43(a) and (b).

The Commission requests comments on whether the proposed reductions in penalties would still provide an incentive for committees to file timely reports and whether such reductions would affect committees' decisions to challenge RTB findings and proposed civil money penalties. Also, as alternatives to reducing the penalty schedules at all activity levels, the Commission seeks comments on whether to reduce fines only for lower levels of activity or whether to reduce fines for only non-election sensitive reports and retain the current penalty schedule for election-sensitive reports.

#### Notification of Respondents

The NPRM proposes amendments to clarify the agency's current practice of notifying political committees and their treasurers by mail of Commission actions taken under these regulations. The Commission sends RTB and final determination notices to the political committee's address listed in its most recently-filed Statement of Organization or amendment. If a

committee and its treasurer submit a statement designating counsel, all subsequent notices and other communications are sent to counsel.

#### Exclusion of Nonfederal Funds in Penalty Calculations

Currently, the Commission calculates civil money penalties by applying the fine schedules at 11 CFR 111.43 to a political committee's "level of activity," which is defined as the total receipts and disbursements for the reporting period covered by a late or nonfiled report. The current definition is based on the statutory requirement in 2 U.S.C. §437g(a)(4)(C) that civil money penalties take into account "the amount of the violation involved" since political committees are required to disclose in their reports all receipts and disbursements. Thus, committees that finance nonfederal activity through their federal accounts may incur higher penalties. The Commission seeks comments on whether the activity level on which civil money penalties are based should exclude receipts and disbursements that finance nonfederal activities.

#### Clarification of Extraordinary Circumstances Defense

Under the administrative fines regulations, respondents may challenge the Commission's RTB finding and/or proposed civil money penalty based, among other things, on "the existence of extraordinary circumstances beyond the respondents' control that were for a duration of at least 48 hours and prevented them from timely filing the report." 11 CFR 111.35. The regulations also currently provide four broad examples of circumstances that will not be considered "extraordinary circumstances."

During the operation of the Administrative Fine program, respondents have raised a number of defenses that the Commission has determined do not constitute ex-

traordinary circumstances. Two of the most common defenses are:

- The unavailability of the treasurer and committee staff, sometimes due to the illness or death of the treasurer, committee staff or their relatives; and
- The inexperience of the treasurer or committee staff resulting from vacancies or turnover in these positions.

The NPRM seeks comment on whether to revise 111.35 to state more specifically the types of circumstances that will not be considered acceptable defenses.

#### Additional Information

The full text of the NPRM is available on the FEC web site at <http://www.fec.gov/register.htm> and from the FEC faxline, 202/501-3413.♦

—Amy Kort

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#### 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 2002-5](#)

Notice of Proposed Rulemaking on Administrative Fines (67 FR 20461, April 25, 2002).

##### [Notice 2002-6](#)

Notice of Availability of Petition for Rulemaking on Candidate Debates (67 FR 31164, May 9, 2002).

##### [Notice 2002-7](#)

Notice of Proposed Rulemaking on Soft Money Rules (67 FR 35654, May 20, 2002).

## Regulations

(continued from page 4)

### Petition for Rulemaking on Candidate Debates

On April 10, 2002, the Commission received a Petition for Rulemaking asking it to amend its rules to explicitly state that a news organization's (or related trade association's) sponsorship of a candidate debate is not an illegal corporate contribution or expenditure in violation of the Federal Election Campaign Act (the Act). The Commission published a Notice of Availability in the May 9, 2002, *Federal Register* ([67 FR 31164](#)) seeking comments on whether to initiate a rulemaking in response to this petition. The deadline for comments is June 10, 2002.

Currently, the Commission's debate regulations at 11 CFR 110.13 state that the debate "staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate." The petition, submitted by several major news organizations, asserts that any regulation of a news organization's debate sponsorship is unconstitutional, contrary to the clear intent of the U.S. Congress and irreconcilable with other regulatory actions taken by the Federal Election Commission and the Federal Communications Commission. The petitioners ask the FEC to draft new regulations clarifying that such sponsorship is legal under the Act and to avoid any further regulation of candidate debate sponsorship by a news organization or a trade association of members of the press.

The full text of the notice is available on the FEC web site at <http://www.fec.gov/register.htm> and from the FEC faxline, 202/501-3413, document number 252. Public comments must be submitted, in either written or electronic form, to

Rosemary C. Smith, Assistant General Counsel. Comments may be sent by:

- E-mail to [debate02noa@fec.gov](mailto:debate02noa@fec.gov) (e-mailed comments must include the commenter's full name, e-mail address and postal address);
- Fax to 202/219-3923 (send a printed copy follow-up to ensure legibility); or
- Overnight mail to the Federal Election Commission, 999 E Street NW, Washington, DC 20436. ♦

—Amy Kort

## Legislation

### Commission Sends Legislative Recommendations to President and Congress

On May 14, 2002, the Commission submitted 23 recommendations to Congress and President Bush for legislative action in the area of campaign finance law. This year's proposals involve a variety of issues, including:

- Requiring electronic filing of reports for Senate candidates;
- Making the Commission the sole point of entry for disclosure reports;
- Eliminating state expenditure limits for publicly financed presidential primary candidates;
- Increasing registration and reporting thresholds for unauthorized committees, local party committees and independent expenditure filers; and
- Averting the impending shortfall in the Presidential Public Funding Program.

The full text of the recommendations can be accessed on the Commission's website, [www.fec.gov](http://www.fec.gov), in the "Campaign Finance Law Resources" section, under the heading "Legal Documents." ♦

—Jim Wilson

## Court Cases

### Bipartisan Campaign Reform Act Litigation

Litigation challenging the constitutionality of provisions of the Bipartisan Campaign Reform Act of 2002 (the BCRA) began with three lawsuits – *McConnell v. FEC*, *NRA v. FEC*, and *Echols v. FEC*. See the [May 2002 Record](#), pages 3-4.

### New Constitutional Challenges

On April 22 and 23, 2002, four more complaints challenging the constitutionality of several provisions of the BCRA were filed in the U.S. District Court for the District of Columbia by:

- The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and the AFL-CIO Committee on Political Education/Political Contributions Committee;
- The Chamber of Commerce for the United States, the National Association of Manufacturers, the National Association of Wholesaler-Distributors and the U.S. Chamber PAC;
- The National Association of Broadcasters; and
- Congressman Ron Paul, the Gun Owners of America, Inc., the Gun Owners of America Political Victory Fund, RealCampaignReform.org, Citizens United and the Citizens United Political Victory Fund, along with other plaintiffs.

These four complaints generally challenge the constitutionality of the BCRA's ban on the use of corporate and labor union funds to pay for "electioneering communications," which include broadcast advertisements that refer to a clearly identified federal candidate and are made within 30 days of a primary election or 60 days of a general election. The



complaints also challenge BCRA provisions that:

- Define coordination with a candidate, campaign or political party;
- Increase disclosure requirements; or
- Distinguish between materials that are broadcast and those that are printed.

On May 7, 2002, four additional groups of plaintiffs filed complaints with the court:

- The California Democratic Party, the California Republican Party and the Santa Cruz County Republican Central Committee, along with other plaintiffs;
- The Republican National Committee and its treasurer, the Republican Party of Colorado, the Republican Party of Ohio, the Republican Party of New Mexico and the Dallas County (Iowa) Republican County Central Committee;
- Victoria Adams, Association of Community Organizers for Reform Now (ACORN), the Fannie Lou Hamer Project, the U.S. Public Interest Research Group (US PIRG) and several state PIRGs, along with other plaintiffs; and
- Rep. Bennie G. Thompson and Rep. Earl F. Hilliard.

Several of these complaints challenge the BCRA's restrictions and prohibitions on the use of soft money by party committees. One complaint challenges BCRA provisions that increase the individual contribution limits, and one complaint also challenges the BCRA provision that prohibits contributions by individuals 17 years old or younger.

### Consolidation of Cases

The court has consolidated the eleven BCRA challenges filed on or before May 7 around *McConnell v.*

*FEC*.<sup>1</sup> The court found that all of the challenges involve common issues of fact and that "consolidation makes sense to the extent that unnecessary costs and delays in the administration of these various actions will be avoided, thereby vindicating the political branches' desire to see this litigation advance as quickly as justice permits." See the May 2002 *Record*, page 3.

*Adams v. FEC*, U.S. District Court for the District of Columbia, 1:02cv00877; *AFL-CIO v. FEC et al.*, U.S. District Court for the District of Columbia, 1:02cv00754; *California Democratic Party and California Republican Party v. FEC*, U.S. District Court for the District of Columbia, 1:02cv00875; *Chamber of Commerce of the United States v. FEC et al.*, U.S. District Court for the District of Columbia, 1:02cv00751; *National Association of Broadcasters v. FEC et al.*, U.S. District Court for the District of Columbia, 1:02cv00753; *Republican National Committee v. FEC*, U.S. District Court for the District of Columbia, 1:02cv00874; *Congressman Ron Paul v. FEC et al.*, 1:02cv00781; and *Rep. Bennie G. Thompson v. FEC*, U.S. District Court for the District of Columbia, 1:02cv00881. ♦

—Amy Kort

## Compliance

### Nonfiler

The Craig Axford for Congress Committee failed to file its pre-convention report for the May 18, 2002, Utah Green Party Convention.

On April 12, 2002, the Commission notified principal campaign committees involved the Utah Green

Party Convention of their potential filing requirements. Committees that failed to file reports by the May 6 due date were notified on May 7 that their reports had not been received and that their names would be published if they did not respond within four business days.

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

—Jim Wilson

## Audits

### Audit of the Committee to Re-Elect Vito Fossella

On April 17, 2002, the Commission approved the final audit report on the Committee to Re-Elect Vito Fossella (the Committee). The report found that the Committee received excessive contributions between January 1, 1999, and December 31, 2000.

### Excessive Contributions

Under the Federal Election Campaign Act and Commission regulations, an individual may contribute \$1,000 per election to a federal candidate. If a campaign receives an excessive contribution, the treasurer may ask the contributor to redesignate the excessive portion to another election, or may ask the donor if the contribution was intended to be a joint contribution attributable to more than one person. 11 CFR 110.1. If the treasurer does not receive a signed written

<sup>1</sup> In future issues of the *Record*, these cases and *McConnell v. FEC*, *NRA v. FEC* and *Echols v. FEC*, will be referred to collectively as *McConnell v. FEC*.

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## Audits

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redesignation or reattribution within 60 days of the original receipt of the contribution, the treasurer must refund the contribution. If a political committee receives a written redesignation or reattribution statement, but does not retain it, the redesignation or reattribution is not effective. 11 CFR 110.1(l)(5).

During the 2000 election cycle, the Committee received excessive contributions totaling \$15,925 from 28 individuals.<sup>1</sup> The Committee's FEC reports indicated that many of these contributions had been reattributed or redesignated. However, the Committee could not produce written documentation of contributors' redesignations and reattributions. The Committee contends that it complied with the contributors' intentions—often expressed in telephone conversations—but that these intentions may not have been documented with signed redesignation or reattribution statements.

In response to the Commission's audit, the Committee made refunds to three of the contributors. The Committee also obtained written resignation or reattribution statements from 20 of the contributors. However, the contributors' statements were all dated in February 2002, well beyond the 60-day period for obtaining a redesignation or reattribution. As a result, these statements were not a viable remedy to the Committee's receipt of the excessive contributions. Excessive contributions totaling \$14,500 from 25 individuals remain to be refunded. ♦

—Amy Kort

<sup>1</sup> Audit staff initially identified 30 contributors who had made apparent excessive contributions. However, the Committee later produced documentation showing that two of these contributors had not exceeded the limits.

## Audits of Bradley, McCain 2000 Campaigns

The Commission has approved the final audit reports on the Bill Bradley and John McCain primary election Presidential campaigns, finding that both committees must repay the U.S. Treasury for a portion of the public funds they used during the 2000 elections. The Commission made its determinations after conducting audits of the committees, which are required for any authorized candidate committee that receives federal funds under the Presidential Primary Matching Payment Account Act. 26 U.S.C. § 9038 (a).

### Bradley Committee

Bill Bradley's primary committee, Bradley for President, Inc., must repay the U.S. Treasury \$14,055, representing matching funds that the committee received in excess of its entitlement. The committee has already repaid \$28,085, representing stale-dated checks identified during the audit.

The audit also found that the committee failed to disclose on its FEC reports interest earned on its investment accounts and reimbursements received from members of the press. The committee also failed to itemize three interest payments on loans, amounting to \$75,024. In response to the Commission's audit, the committee amended its reports to disclose this activity.

### McCain Committees

Senator John McCain's 2000 primary committee, McCain 2000, Inc. and the McCain Compliance Committee, Inc. must repay \$99,037 to the U.S. Treasury. The bulk of the repayment, \$85,017, represents stale-dated checks issued by McCain 2000, Inc. The audit also identified apparent non-qualified campaign expenses, which included some expenses not related to the campaign and some lost or stolen equipment that the committee failed to show conscientious efforts to safeguard. McCain 2000, Inc., did not receive matching funds in excess of its entitlement.

The audit's reconciliation of the McCain Compliance Committee Inc.'s FEC reports with its bank records also identified material misstatements of its receipts, resulting primarily from the failure to report \$3,000 in contributions. The committee refunded the contributions and amended its disclosure reports.

### Additional Information

The two audit reports are available from the FEC's Public Records Office by calling 800/424-9530 (press 3) or 202/694-1120. ♦

—Amy Kort

## Advisory Opinions

### AO 2002-03

## Status of State Party as State Committee of Political Party

The Green Party of Ohio satisfies the requirements for state committee status.<sup>1</sup>

The Federal Election Campaign Act (the Act) defines a state committee as "the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission." 2 U.S.C. §431(15). In order to achieve state committee status under Commission regulations, an organization must meet two requirements. It must have:

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

<sup>1</sup> The Green Party of Ohio is affiliated with the Green Party of the United States, which is a national committee of a political party. See AO 2001-13.

The Green Party of Ohio meets both requirements. It satisfies the first requirement because its constitution and bylaws (the Bylaws) set out an identifiable organizational structure with varying responsibilities. The Bylaws delineate activity commensurate with the day-to-day functions of a political party on the state level and are consistent with the state party rules of other political organizations that the Commission has found to satisfy this requirement for state committee status.<sup>2</sup>

The Party satisfies the second requirement—ballot access for a federal candidate—in that Ralph Nader gained ballot access as the Party’s candidate on the Ohio ballot in 2000. Mr. Nader meets the requirements for becoming a federal candidate under 2 U.S.C. §441a(d).<sup>3</sup>

Date Issued: April 11, 2002;  
Length: 3 pages. ♦

—Amy Kort

### [AO 2002-04](#)

#### **Name and Abbreviation of SSF**

Austin, Nichols & Co., Incorporated (the Company), which is a subsidiary of Pernod Ricard S.A., may name its separate segregated

fund (SSF) “Austin, Nichols & Co., Incorporated/Pernod Ricard USA Political Action Committee” and may use a shortened version, “Pernod Ricard USA PAC,” for common uses, such as on checks and letterhead.

Under the Federal Election Campaign Act and Commission regulations, the name of any SSF must include the full name of its connected organization. 2 U.S.C. §432(e)(5) and 11 CFR 102.14(c). The regulations also permit the use of a clearly recognized abbreviation or acronym, as long as the SSF uses both the abbreviation (or acronym) and the full name on all reports, including the Statement of Organization, and in all disclaimer notices. 11 CFR 102.14(c). See also AOs 2000-34, 1999-20 and 1987-26.

In late 2001, the Company adopted the trade name “Pernod Ricard USA” and publicized the fact that the Company would be known by this name through press releases, web site documents and the Dun & Bradstreet’s Company Detail listing. The Company also uses the name “Pernod Ricard USA” in printed materials and for government licensing and authorizations.

Because the proposed name of the SSF contains the full official corporate name of the Company, it is permissible. Moreover, although “Pernod Ricard USA PAC” is not literally an abbreviation or acronym, it is clearly recognizable as referring to the Company’s well-publicized name. Thus, it gives adequate notice to the public as to the identity and sponsorship of the SSF and is permissible under the regulations for common uses, so long as the full PAC name appears on the Statement of Organization, reports and disclaimers.

Date Issued: April 25, 2002;  
Length: 4 pages. ♦

—Kate Miller

## **Advisory Opinion Request**

### [AOR 2002-6](#)

Qualification as state committee of political party (Green Party of California, April 29, 2002) ♦

## Election Administration

### **Commission Approves Voting Systems Standards**

On April 30, 2002, the Commission unanimously approved the Voting Systems Standards (the Standards) for release and publication. The Standards have two volumes:

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

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

The Standards are intended to ensure that election equipment certified for purchase by participating states will be accurate, reliable and dependable. Although the Standards are voluntary, 38 states have chosen to adopt them either in whole or in part and currently use them to design systems and procure equipment to meet the needs of a variety of voting populations and election formats. The Commission has twice released draft versions of the Standards for public comment and has made several revisions to the document based on the comments received from vendors, election officials, academics, technical experts, special interest advocacy groups and concerned citizens. See the [February 2002 Record](#), page 1. ♦

—Amy Kort

<sup>2</sup> In previous advisory opinions determining state committee status, the Commission considered either the bylaws or other governing documents of a state party organization. AOs 2000-39 and 2000-35. In reviewing state party affiliates of qualified national party committees, the Commission considered a state affiliate agreement or correspondence from the national party that attested to the role the state affiliate played “commensurate with the day-to-day operation of [a political party] on a State level.” See AOs 1999-26 and 1992-30.

<sup>3</sup> An individual becomes a candidate for the purposes of the Act once he or she receives contributions aggregating in excess of \$5,000 or makes expenditures in excess of \$5,000. 2 U.S.C. §432(e)(1) and 11 CFR 101.1.



## Information

### Internal Revenue Service Announces Relief for 527 Organizations

Citing confusion over new tax law reporting and disclosure requirements, the Internal Revenue Service is offering political committees the opportunity to file required forms by July 15, 2002. The IRS said that many committees have either failed to file or need to correct previously filed forms, and that a voluntary compliance program is most likely to achieve maximum disclosure and is in the "best interests of sound tax administration."

According to Notice 2002-34, the IRS will not assert any tax, penalty, or interest against any political organization described in section 527 of the Internal Revenue Code based solely upon a late or incorrect filing of any of the following forms, if the organization files or corrects the forms by July 15, 2002:<sup>1</sup>

- Any Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations*, due on or before July 15, 2002, including any applicable extensions;
- Any Form 990, *Return of Organization Exempt from Income Tax*, or Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*, due on or before July 15, 2002, including any applicable extensions.

The program described above is not available for any Form 1120-POL or Form 990 that is filed or corrected after July 15, 2002. In addition, this program does not apply to any Form 1120-POL required to be filed under rules in effect before July 1, 2000, so a

<sup>1</sup>Late or incorrect Forms 8871 and 8872 filed by July 15, 2002 are also included in the voluntary compliance program. These forms are not required by political organizations that file with the FEC as political committees.

political organization remains liable for the tax on its investment income. Taxes, penalties and interest will be due from the original due date if any form is not filed or corrected by July 15, 2002. A political organization remains liable for tax, penalties and interest if it fails to report any required information.

#### Background

Legislation enacted in 2000 imposed new tax law reporting and disclosure requirements on political organizations (sometimes referred to as "section 527 organizations," after their tax-exempt designation under section 527 of the Internal Revenue Code). Federal candidate committees, political party committees, or political action committees required to report to the Federal Election Commission are required to file Form 1120-POL, an income tax return; and Form 990 or Form 990-EZ, an informational filing.

#### 1. Form 1120-POL – U.S. Income Tax Return for Certain Political Organizations

Section 527 political organizations that either have taxable income over \$100 or \$25,000 or more in gross receipts<sup>2</sup> must file income tax return Form 1120-POL. Form 1120-POL is due by the 15<sup>th</sup> day of the third month after the end of the organization's tax year.

Organizations may request a six-month extension of the filing deadline by filing Form 7004, *Application for Automatic Extension of Time to File Corporate Income Tax Return*; this extension must be filed by the due date of Form 1120-POL.

The voluntary compliance program described in Notice 2002-34 is available to political organiza-

<sup>2</sup>For taxable years beginning before July 1, 2000, Form 1120-POL was required only for organizations having over \$100 in taxable income. The Notice 2002-34 voluntary compliance program is not available for any Form 1120-POL required to be filed under rules in effect before July 1, 2000.

tions that have failed to file or incorrectly filed their Form 1120-POL, as long as the form or correction is filed by July 15, 2002.

#### 2. Form 990 or 990-EZ – Return of Organization Exempt from Income Tax

Tax-exempt section 527 political organizations that have \$25,000 or more in gross receipts must also file an exempt organization information return (Form 990 or 990-EZ<sup>3</sup>). This return is due on the 15<sup>th</sup> day of the fifth month after the end of the fiscal year.

Organizations may request a three-month extension, without showing cause, by filing Form 8868, *Application for Extension of Time to File an Exempt Organization Return*, by the due date. A second three-month extension, with cause, may also be requested on Form 8868.

Notice 2002-34 allows political organizations that have failed to file or incorrectly filed their Form 990 (or 990-EZ) to file or correct, without tax, interest, or penalty, as long as the form or correction is filed by July 15, 2002.

For more information, see:

- IRS web site: [www.irs.gov](http://www.irs.gov).
- Information on filing requirements and download forms: [www.irs.gov/polorgs](http://www.irs.gov/polorgs).
- Copy of Notice 2002-34 at [www.irs.gov/pub/irs-drop/n-02-34.pdf](http://www.irs.gov/pub/irs-drop/n-02-34.pdf)
- IRS Toll free number: 1-877-829-5500. This number answers questions about tax-law filing requirements for political committees, and is available 8:00 a.m. to 6:30 p.m. Eastern time, Monday through Friday. ♦

—Submitted by the IRS

<sup>3</sup>Organizations with gross receipts of less than \$100,000 and assets of less than \$250,000 at the end of the year may file a Form 990-EZ, Short Form Return of Organizations Exempt from Income Tax. All other political organizations file a Form 990, Return of Organization Exempt from Income Tax.



## Publications

### New Campaign Guide Available

A revised *Campaign Guide for Nonconnected Committees* is now available on the Commission's web site at <http://www.fec.gov/pdf/nongui.pdf>. The new guide provides nonconnected committees with clear explanations of the Federal Election Campaign Act and Commission regulations as of February 2002. This version of the guide does not address changes to the federal campaign finance law that will become effective after November 6, 2002, as part of the Bipartisan Campaign Reform Act of 2002 (BCRA). The Commission plans to publish a new version of the *Non-connected Guide* once BCRA-

### 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.

related amendments to the campaign finance law and Commission regulations are in place.

Given the limited shelf life for the current edition, the Commission does not intend to print copies for mass distribution. Instead, the Guide will be available for download on the FEC web site. A limited number of printed loose-leaf copies will also be available for those without Internet access. To request a printed copy, call the Information Division at 800/424-9530 (press 1, then 3) or 202/694-1100. ♦

—Amy Kort

### Disclosure Directory of Federal and State Election Offices Available

The *Combined Federal/State Disclosure and Election Directory 2002* is now available. This annual publication provides information on the national and state agencies responsible for the disclosure of campaign finances, lobbying, personal finances, public financing, candidates on ballots, election results, spending on state initiatives and other financial filings. It also includes agency e-mail and Internet addresses.

The *Directory* is available on the Commission's web site, [www.fec.gov](http://www.fec.gov), via the "Elections and Voting" section. This interactive version, periodically updated throughout the year, provides hyperlinks to allow viewers to directly access the home pages of the state and federal agencies listed. The *Directory* is also available on 3.5" diskette. Paper copies, which are free, may be obtained by calling the Public Records Office at 800/424-1120 (press 3) or 202/694-1120. ♦

—Amy Kort

## Reports

### Revised Independent Expenditure Reporting Forms

The Commission has revised FEC Form 5 and Schedule E of FEC Form 3X to conform with new independent expenditure reporting regulations (see the May 2002 *Record*, page 2). The amendments to Schedule E and Form 5 remove the notarization requirement of the certification stating whether the expenditures were "coordinated" with any candidate, authorized committee or agent thereof. Instead, the filer must self-verify, under penalty of perjury, the independence of the expenditures reported. Since notarization is no longer required, the Commission will no longer require a paper follow up of Schedule E and Form 5 for those who file electronically. The Commission has extended self-verification to all reports of independent expenditures.

The forms were transmitted to Congress on May 7, 2002. Filers must begin using the new forms once the revised independent expenditure reporting regulations become effective. The Commission will publish the effective date in the *Federal Register* as part of its notice announcing the effective date of the accompanying regulations. The new forms and their instructions will then be available on the FEC web site at <http://www.fec.gov/reporting.html> and from the FEC's faxline, (call 202/501-3413). ♦

—Amy Kort

## Administrative Fines

### Committees Fined for Nonfiled and Late Reports

The Commission recently publicized its final action on 51 new Administrative Fine cases, bringing the total number of cases released to the public to 396.

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 fine 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. The committees and the treasurers are assessed civil money penalties 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 fine regulations.

### FECFile Help on Web

The manual for the Commission's FECFile 4 electronic filing software is available on the FEC's web site. You can download a PDF version of the manual at <http://herndon1.sdrdc.com/fecfile4.pdf>.

### Committees Fined and Penalties Assessed

1. American Neurological Surgery PAC	\$275
2. Azinger for Congress Committee	\$350 <sup>1</sup>
3. Blake for Congress Committee	\$531 <sup>1</sup>
4. Brad Carson for Congress Committee	\$1,500
5. California Cooperative Creamery Federal PAC of Dairy Farmers of America Inc.	\$218
6. Carroll 2000	\$2,700 <sup>1</sup>
7. Columbia Energy Group Employees Political Action Fund	\$650
8. Committee to Elect Joyce Marie Griggs (30 Day Post-General)	\$1,200 <sup>1</sup>
9. Committee to Elect Joyce Marie Griggs (Year End 2000)	\$900 <sup>1</sup>
10. DeFazio for Congress	\$250
11. DiNizio 2000	\$1,800 <sup>1</sup>
12. Eli Lilly and Company PAC	\$3,500
13. Friends for Jack Metcalf	\$250 <sup>1</sup>
14. Friends of John Conyers	\$1,800
15. Garza for Congress Committee	\$900 <sup>1,2</sup>
16. Hartnett for Congress	\$325 <sup>1</sup>
17. Independent Action Inc.	\$900 <sup>1,2</sup>
18. International Council of Cruise Lines PAC (ICCL-PAC)	\$4,050 <sup>1</sup>
19. Jane Frederick for Congress	\$900
20. Joe Vu for Congress Campaign Committee	\$900 <sup>1</sup>
21. Kathleen for Congress	\$350
22. Kelley for U S Senate Committee	\$900
23. King for Congress Campaign	\$900 <sup>1</sup>
24. Lehigh Valley Democratic Committee	\$1,800 <sup>1</sup>
25. Libertarian Party of Illinois	\$3,375 <sup>1</sup>
26. Marta Macias Brown for Congress	\$900
27. McNary for Congress Committee	\$8,125 <sup>1</sup>
28. Michael Coles for U.S. Senate, Inc.	\$250
29. Moritz for Congress	\$0 <sup>3</sup>
30. Newinski for Congress	\$900
31. Paul Williams for Congress	\$2,250 <sup>1</sup>
32. PECO Energy Company PAC (Philadelphia Electric Company PAC)	\$1,350
33. PH&S Federal PAC	\$275
34. People for Royal Hart	\$0 <sup>3</sup>
35. Public Service Electric and Gas Company PAC (PEGPAC)	\$450
36. Republican Central Committee of San Luis Obispo County	\$900 <sup>1</sup>
37. Reynolds for Congress	\$500
38. Riverside County Republican Central Committee	\$160
39. Robinson 2000 LLC D/B/A Robinson Federal Committee	\$250

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

<sup>2</sup> Penalty reduced due to level of activity on the report.

<sup>3</sup> Penalty reduced due to a lack of activity on the report.

## Committees Fined and Penalties Assessed, cont.

40. Russ Francis for Congress	\$3,500 <sup>1</sup>
41. Sam Bregman for Congress	\$250
42. Sand for Senate 2000	\$900 <sup>1</sup>
43. Schwartz 2000 Committee	\$250
44. Sonny Zayas for Congress Committee	\$650
45. Starr for Congress	\$650
46. Tico Perez for Congress Campaign	\$400
47. Troy Liggett for Congress	\$0 <sup>3</sup>
48. Utility Workers Union of America Political Contributions Committee	\$675
49. Willie Logan for United States Senate	\$4,500 <sup>1</sup>
50. YOB 2000 (Y2K)	\$325
51. Yuba County Republican Central Committee	\$650

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

<sup>2</sup> Penalty reduced due to level of activity on the report.

<sup>3</sup> Penalty reduced due to a lack of activity on the report.

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

## Outreach

### Conference for Membership and Labor Organizations

On **June 26-28, 2002**, the Commission will hold a conference in Washington, D.C., for membership and labor organizations. Commissioners and experienced FEC staff will conduct a series of interactive workshops explaining how the requirements of the federal election law apply to these organizations. A representative from the IRS will be available to answer election-related tax questions.

The registration fee for this conference is \$375, which covers the cost of the conference, materials and meals. The registration deadline (and the deadline for fully-refunded

registration cancellations) is June 4. A late registration fee of \$10 will be added effective June 5.

The conference will be held at the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW, Washington, D.C. A room rate of \$199 single or \$229 double is available for reservations made by June 4. Call 800/635-5065 or 202/484-1000 ext. 5000 to make reservations. In order to receive this room rate, you must notify the hotel that you will be attending the FEC conference. After June 4, room rates are based on availability. The hotel can be easily reached via the L'Enfant Plaza Metro and Virginia Railway Express stations.

### Registration Information

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

- Call Sylvester Management Corporation at 800/246-7277;

- Visit the FEC web site at [www.fec.gov/pages/infosvc.htm#Conferences](http://www.fec.gov/pages/infosvc.htm#Conferences) (on-line registration requires complete credit card information); or
- Send an e-mail to [allison@sylvestermanagement.com](mailto:allison@sylvestermanagement.com). ♦

—Amy Kort

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Washington, D.C.  
George Smaragdis



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