



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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December 4, 2003

MEMORANDUM

AGENDA ITEM
For Meeting of: 12-11-03

TO: The Commission

FROM: James A. Pehrkon 
Staff Director

SUBJECT: Enforcement Disclosure Initiatives

The Commission has before it a new process for finding and examining public documents regarding closed enforcement actions. This process is scheduled for release on the FEC web site in conjunction with the Commission meeting on December 11. This new web-base query process represents one of several recent initiatives developed by the FEC to improve the enforcement process, as well as to improve public access and understanding of compliance actions. Three of these initiatives are described here.

1. **ENFORCEMENT QUERY SYSTEM**

Using current scanning, optical character recognition, and text search technologies the Enforcement Query System permits intuitive and flexible searches of closed case documents and related material indexed from these documents. Together with the interim policy regarding disclosure of closed enforcement and related files, this represents 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.

Users of the system can now search for specific words or phrases from the text of all publicly available closed case documents. They also can identify single matters or groups of cases using unique identifiers, including case names and numbers, complainants and respondents, timeframes, dispositions, legal issues, and penalty amounts.

Currently, the process contains complete public case files for all matters closed since January 1, 2002. In addition to adding future cases as they are closed, staff is working to incorporate cases closed prior to 2002. All matters closed in 2001 will be included in the system by July of 2004, and cases closed in 2000 will be available by year-end 2004.

Initiated by the Commission earlier this year, this project has been a joint effort by the Public Disclosure, Public Information and Information Technology Divisions, the Press Office as well as Chair Weintraub, Vice Chairman Smith and Commissioner Toner.

2. EXPANDED NEWS RELEASES

The Commission has also approved changes to the structure of news releases announcing case closures. The new structure is designed to provide relevant factual information about significant cases when the file is released and parties have been informed that the case is closed. A description of facts, varying in detail commensurate with the importance of the case and the action taken is now available. In addition, all subject descriptions will provide a more complete description of the statutory framework of the allegation. Coupled with the Enforcement Query System, a more complete and accurate reporting of Commission enforcement actions will now be available to the public.

3. ENFORCEMENT PROFILE

Finally, the Commission has recently completed an Enforcement Profile, reviewing the impact of recent changes made by the Commission aimed at improving the focus and speed of processing of enforcement actions. These changes began with implementation of the Enforcement Priority System in 1993 which classifies and prioritizes cases based on complexity and importance.

In addition, as a result of recommendations made by Pricewaterhouse Coopers (PwC) in their review of the Commission's business practices, legislation enacted in 1999 established the Administrative Fine Program to remove routine late and non-filing matters from the full enforcement process. The Commission also instituted an Alternative Dispute Resolution (ADR) program to expeditiously process matters that are less "serious breeches of the law," but that are not "simple" late and non-filer issues. The Commission has also implemented a Case Management System which enables the FEC to measure performance considering the nature of cases resolved and the timeliness of their resolution.

The goal of these measures is to increase the effectiveness of the enforcement program by activating more cases, closing more cases with substantive action, and resolving cases that would otherwise have been dismissed. Findings of the Profile include:

- Total cases closed have increased substantially since 2000.
- Total fines and penalties assessed have increased steadily and substantially since 1999.
- The percentage of cases closed with substantive action increased by more than 20% 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% and 28% respectively. This occurred even as a greater proportion of those cases have dealt with more complex issues such as contribution limits and prohibitions rather than routine reporting violations.
- A greater number of reporting violations have been resolved as a result of the Administrative Fine and ADR programs.

The Profile demonstrates that the Commission has met its goal. Today, the Commission focuses its legal resources on more complex enforcement matters while using administrative processes to handle less complex matters.

Attachments:

Press Release dated December 3, 2003

FEC Enforcement Profile dated September 30, 2003

FEDERAL ELECTION COMMISSION



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For Immediate Release
December 3, 2003

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COMPLIANCE CASES MADE PUBLIC

WASHINGTON -- The Federal Election Commission has recently made public its final action on two matters previously under review (MURs). This release contains only disposition information.

Specific released documents placed on the public record within the following closed MURs are cited following DISPOSITION heading. Release of these documents is consistent with the district court opinion in the December 19, 2001, decision of *AFL-CIO v. FEC*.

1. MUR 5272

RESPONDENT:

COMPLAINANTS:

SUBJECT:

DISPOSITION:

American Israel Public Affairs Committee (AIPAC)

James E. Akins, *et al.*

Failure to report the costs of membership communications

Based upon a review the information available, the Commission noted that there did not appear to be sufficient basis to find reason to believe that AIPAC's communications, as a general matter, triggered the reporting requirements of the Act because they did not contain express advocacy.

Additionally, the Commission stated, further investigation into AIPAC's activities based upon the information presented would not be an appropriate use of the Commission's limited resources. Accordingly, the FEC exercised its prosecutorial discretion and dismissed this matter.*

**DOCUMENTS ON
PUBLIC RECORD:**

Certification of vote by Commissioners (dated September 30, 2003); Statement of Reasons (Chair Weintraub, Vice Chairman Smith and Commissioners Mason, McDonald,

Thomas and Toner)

2. MUR 5345

RESPONDENTS: Brady Campaign to Prevent Gun Violence - Voter Education Fund, Mark Ingram, treasurer

COMPLAINANT: Internal

SUBJECT: Failure to file timely 24-Hour Notices for independent expenditures

DISPOSITION: Conciliation Agreement: \$26,000 civil penalty*
The Committee made independent expenditures totaling \$211,509 opposing candidates in Kentucky and Pennsylvania. Respondents violated the Act by failing to file timely two 24-Hour Notices for these independent expenditures. Respondents will cease and desist from violating this provision of the Act.

DOCUMENTS ON PUBLIC RECORD: Conciliation Agreement (dated October 10, 2003); Certification of vote by Commissioners (dated October 17, 2003).

***There are four administrative stages to the FEC enforcement process:**

- | | |
|---------------------------------------|----------------------------------|
| 1. Receipt of proper complaint | 3. "Probable cause" stage |
| 2. "Reason to believe" stage | 4. Conciliation stage |

It requires the votes of at least four of the six Commissioners to take any action. The FEC can close a case at any point after reviewing a complaint. If a violation is found and conciliation cannot be reached, then the FEC can institute a civil court action against a respondent.

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