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Litigation

Public Citizen, et al. v. FEC

On January 31, 2014, Public Citizen, *et al.* ("Public Citizen") filed suit against the FEC in the U.S. District Court for the District of Columbia, challenging the Commission's dismissal of the plaintiffs' administrative complaint against Crossroads Global Political Strategies ("Crossroads GPS").

Background

The suit arises from an administrative complaint Public Citizen and others filed with the FEC on October 14, 2010, that alleged Crossroads GPS violated the Federal Election Campaign Act (the "Act") by not registering and reporting as a political committee.

Under the Act, a group generally must register as a political committee if it raises or spends more than \$1,000 during a calendar year to influence federal elections. 2 U.S.C. 431(4). In *Buckley v. Valeo*, the Supreme Court said the definition of political committee "need only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate." Public Citizen alleges that in 2010, Crossroads GPS exceeded FECA's \$1,000 expenditure threshold and that its major purpose was to influence federal elections.

The Commission lacked the required votes to open an investigation and the matter was dismissed.

Complaint

Public Citizen's lawsuit challenges that dismissal. The complaint alleges that Crossroads GPS spent more than \$1,000 to influence federal elections and that its total spending on political advertising, relative to its total receipts, suggests its major purpose was to influence federal elections. The complaint further alleges that Crossroads GPS violated the Act's registration requirements and failed to disclose the funding sources for Crossroads GPS' political advertisements.

Public Citizen seeks a declaration that the Commission's dismissal of its administrative complaint was arbitrary, capricious, an abuse of discretion, and otherwise contrary to the law. Public Citizen further seeks an order requiring the FEC to conform with such a declaration within 30 days.

U.S. District Court for the District of Columbia: Case 1:14-CV-00148

(Posted 02/07/2014; By Travis Drake)

Resources:

- [Public Citizen Complaint in District Court \[PDF\]](#)
- [Public Citizen v. FEC Ongoing Litigation Page](#)

Kuhn for Congress v. FEC

On January 6, 2014, Kuhn for Congress, the principal campaign committee for South Carolina Congressional candidate John Kuhn, filed a petition for review in the U.S. District Court for the District of South Carolina challenging the Commission's assessment of an \$8,800 civil penalty. The administrative fine resulted from the committee's failure to file its April 2013 Quarterly report by the April 15 deadline. The complaint contends that the penalty assessed by the FEC is excessive, and suggests that a fine of \$300 would be a reasonable alternative.

Complaint

According to the complaint, the Kuhn for Congress Committee filed its April Quarterly report more than four months late, on August 20, 2013. Among other things, Mr. Kuhn claims he had difficulty finding a treasurer for his campaign and appointed his business accountant, Amanda Michelle Perry. Ms. Perry was pregnant at the time and, according to the complaint, gave birth eight days before the March 19 special election for South Carolina's First Congressional District, in which Mr. Kuhn was a candidate. In Ms. Perry's absence, the complaint says the assistant treasurer and an accountant hired by the committee were unable to resolve mathematical discrepancies in the April Quarterly report and, as a result, failed to file it on time.

The complaint notes that the April Quarterly report was due after Mr. Kuhn lost the election, and claims the FEC's actions violate the plaintiff's constitutional rights to due process under the Fifth and Fourteenth Amendments. The plaintiff asks the court to modify or set aside the fine.

U.S. District Court for the District of South Carolina: Case 2:13-cv-03337-PMD-BHH

(Posted 2/20/2014; By: Isaac Baker)

Resources:

- [Administrative Fines Program](#)
- [Kuhn for Congress Petition for Review \[PDF\]](#)
- [Kuhn for Congress v. FEC Ongoing Litigation Page](#)

Compliance

Coordinated Party Expenditure Limits Adjusted

The 2014 coordinated party expenditure limits are now available.

The limits are:

- \$94,500 for House nominees in states that have only one U.S. House Representative. This adjustment is calculated by multiplying \$20,000 by the Cost of Living Adjustment provided by the Secretary of Labor (COLA) and rounding to the nearest \$100. The applicable COLA is 4.72469.
- \$47,200 for House nominees in states that have more than one U.S. House Representative ($\$10,000 \times \text{COLA}$); and
- A range from \$94,500 to \$2,755,200 for Senate nominees, depending on each state's voting age population (the greater of $\$20,000 \times \text{COLA}$ or $2\% \times \text{state voting age population (VAP)} \times \text{COLA}$).

Party committees may make these special expenditures on behalf of their 2014 general election nominees. National party committees have a separate limit for each nominee. Each state party committee has a separate limit for each House and Senate nominee in its state. Local party committees do not have their own separate limit. One party committee may authorize another committee of that party to make an expenditure against the authorizing committee's limit. Local committees may only make coordinated party expenditures with advance authorization from another committee within in the party.

Coordinated party expenditure limits are separate from the contribution limits. Unlike contributions, the national Senatorial and Congressional committees do not have separate coordinated party expenditure limits; however, they may receive authorization to spend against the national limit or state party limits. They also differ from contributions in that the party committee must spend the funds on behalf of the candidate rather than give the money directly to the campaign. These expenditures may be made in consultation with the candidate; however, only the party committee making the expenditure – not the candidate committee – must report them. Coordinated party expenditures are reported on FEC Form 3X, Line 25, and are always itemized on Schedule F, regardless of amount.

[**Click here to view the 2014 coordinated party expenditure limits**](#). The link also includes information on which party committees have the authority to make coordinated party expenditures; the formula used to calculate the coordinated party expenditure limits; and a listing of the state-by-state coordinated party expenditure limits for Senate candidates.

(Posted 2/6/2014; By Christopher Berg)

Resources:

- [Chapter 7, Campaign Guide for Political Party Committees](#) [PDF]
- [Compliance Map](#)

Reporting

Lobbyist Bundling Disclosure Threshold Adjusted

The Federal Election Campaign Act, as amended by the Honest Leadership and Open Government Act of 2007 (HLOGA), requires certain political committees to disclose contributions bundled by lobbyists/registrants and lobbyist/registrant PACs once the contributions exceed a specified threshold amount. The Commission must adjust the threshold amount annually.

The threshold is adjusted by multiplying the \$15,000 statutory threshold by the difference between the price index for the preceding 12 months, as certified by the Secretary of Labor, and the price index for the base period (CY 2006). 2 U.S.C. §§434(i)(3) and 441a(c)(1)(B). The resulting amount is rounded to the nearest multiple of \$100. 2 U.S.C. §441a(c)(1)(B)(iii). Based on this formula, the lobbyist bundling disclosure threshold for 2014 is \$17,300.

(Posted 02/06/2014; By: Christopher Berg)

Resources:

- [Lobbyist Bundling Disclosure Guidance](#)
- [Federal Register Notice \[PDF\]](#)
- [FEC Form 3L and Instructions \[PDF\]](#)

Oklahoma Special Election Reporting: Senate



OKLAHOMA SPECIAL
(Photo by NationalAtlas.gov)

Oklahoma will hold Special Primary and General elections to fill the U.S. Senate seat being vacated by Senator Tom Coburn. The Special Primary Election will be held on June 24, 2014, and the Special General Election will be held November 4, 2014. Under Oklahoma law, in the event that the top vote-getter does not receive over 50% of the votes cast in his/her party's Special Primary Election, the top two vote-getters of that party will participate in a Special Runoff Election held on August 26, 2014.

Candidate committees involved in these elections must follow the reporting schedule posted at http://www.fec.gov/pages/report_notices/2014/oksen.shtml.

That schedule also applies to PACs and party committees that participate in the elections and file on a quarterly basis in 2014. PACs and party committees that file monthly should continue to file according to their regular filing schedule.

Filing Electronically

U.S. Senate committees file with the Secretary of the Senate and are not subject to the mandatory electronic filing rules, but may file an unofficial copy of their reports with the Commission in order to speed disclosure. For other political committees, 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. Pre-election reports sent by registered or certified mail must be postmarked on or before the mailing deadline to be considered timely filed; other reports must be postmarked by the filing deadline. A committee sending its reports by certified mail should keep its certified 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. A committee sending its report by registered mail should keep its proof of mailing. Note that a certificate of mailing from the USPS is not sufficient to prove that a report is timely filed using registered, certified or overnight mail. 2 U.S.C. §434(a)(5) and 11 CFR 100.19 and 104.5(e) and (i).

Overnight Mail. Reports filed via overnight mail¹ 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 before the Secretary of the Senate Public Records Office's or 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

A participating candidate's principal campaign committee must file a 48-hour notice each time it receives a contribution of \$1,000 or more between June 5 and June 21 for the Special Primary, between August 7 and August 23 for the Special Runoff and between October 16 and November 1 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 \$1,000 between June 5 and June 22 for the Special Primary, between August 7 and August 24 for the Special Runoff and between October 16 and November 2 for the Special General. This requirement is in addition to that of filing 48-hour reports of

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.

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 June 5 for the Special Primary. If a Special Runoff is held, the 48-hour reporting requirement applies to independent expenditures that aggregate at or above \$10,000 prior to August 7. For the Special General, the 48-hour reporting requirement applies to independent expenditures that aggregate at or above \$10,000 prior to October 16.

Electioneering Communications

The 30-day electioneering communications period in connection with the Special Primary runs from May 25 through June 24. The 30-day electioneering communications period in connection with the Special Runoff runs from July 27 through August 26. The 60-day electioneering communications period in connection with the Special General runs from September 5 through November 4.

Disclosure of Lobbyist Bundling Activity

Campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections 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 \$17,300 during the special election reporting periods. 11 CFR 104.22(a)(5)(v) and (b). For more information on these requirements, see the [March 2009 Record](#).

(Posted 02/10/2014; By Katherine Carothers)

Resources:

- [Oklahoma Senate Special Election Prior Notice](#)
- [2014 Reporting Dates](#)
- [Oklahoma Senate Special Election Compliance Page](#)
- [Federal Register notice \[PDF\]](#)

Florida Special Election Reporting: 19th District



FLORIDA SPECIAL
(Photo by
NationalAtlas.gov)

Florida will hold Special Primary and General elections to fill the 19th Congressional District House seat vacated by Congressman Trey Radel. The Special Primary will be held on April 22, 2014, and the Special General will be held on June 24, 2014.

Candidate committees involved in these elections must follow the reporting schedule posted at http://www.fec.gov/pages/report_notices/2014/fl19.shtml.

That schedule also applies to PACs and party committees that participate in the elections and file on a

quarterly basis in 2014. PACs and party committees that file monthly should continue to file according to their regular filing schedule.

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. Pre-election reports sent by registered or certified mail must be postmarked on or before the mailing deadline to be considered timely filed; other reports must be postmarked by the filing deadline. A committee sending its reports by certified mail should keep its certified 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. A committee sending its report by registered mail should keep its proof of mailing. Note that a certificate of mailing from the USPS is not sufficient to prove that a report is timely filed using registered, certified or overnight mail. 2 U.S.C. §434(a)(5) and 11 CFR 100.19 and 104.5(e) and (i).

Overnight Mail. Reports filed via overnight mail ¹ 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 last business day before 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

A participating candidate's principal campaign committee must file a 48-hour notice each time it receives a contribution of \$1,000 or more between April 3 and April 19 for the Special Primary and between June 5 and June 21, 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 \$1,000 or more between April 3 and April 20 for the Special Primary and between June 5 and June 22 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

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.

reporting requirement applies to independent expenditures that aggregate at or above \$10,000 prior to April 3 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 June 5.

Electioneering Communications

The 30-day electioneering communications period in connection with the Special Primary runs from March 23 through April 22. The 60-day electioneering communications period in connection with the Special General runs from April 25 through June 24.

Disclosure of Lobbyist Bundling Activity

Campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections 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 \$17,300 during the special election reporting periods. 11 CFR 104.22(a)(5)(v) and (b). For more information on these requirements, see the [March 2009 Record](#).

(Posted 02/14/2014; By: Katherine Carothers)

Resources:

- [Florida 19th District Special Election Prior Notice](#)
- [2014 Reporting Dates](#)
- [Florida 19th District Special Election Compliance Page](#)
- [Federal Register Notice](#)

Outreach

FEC to Host March 19 Seminar/Webinar for Campaigns and Party Committees



The Commission will hold a seminar for campaigns and party committees at its Washington, DC, headquarters on Wednesday, March 19, 2014. The seminar will also be offered as a webinar for those who cannot attend in person. Commissioners and staff will conduct a variety of technical workshops on the federal campaign finance laws affecting House and Senate campaigns and political party committees. Workshops are designed for those seeking an introduction to the basic provisions of the

law as well as for those more experienced in campaign finance law. To view the agenda or to register for the seminar, please visit the seminar website at <http://www.fec.gov/info/conferences/2014/campaignpartyseminar.shtml>.

Webinar Information. Seminar workshops will be simulcast for online attendees, who will see workshop slides, hear the presentations and be able to ask questions via live chat. Additional instructions and technical information will be provided to those who register for the webinar.

In-Person Attendees. The seminar 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. Attendees are responsible for making their own arrangements for accommodations. The FEC recommends that individuals planning to travel to attend the seminar wait to finalize travel arrangements until their conference registration has been confirmed by Sylvester Management Corporation.

Workshop Materials. Webinar participants will receive electronic copies of workshop materials in advance, and those attending in-person may choose that option when they register. Alternatively, seminar attendees may elect to receive a binder with printed materials the morning of the event.

Registration Information. The registration fee is \$100 to attend in-person or \$75 to participate online. Registration fees include a \$25 nonrefundable transaction fee. A full refund (minus the transaction fee) will be made for all cancellations received by Friday, March 14; no refund will be made for cancellations received after that time. Complete registration information is available online at <http://www.fec.gov/info/conferences/2014/campaignpartyseminar.shtml>.

Registration Questions

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

(Posted 02/10/2014; By Molly Niewenhous)

Resources:

- [FEC Educational Outreach Opportunities](#)