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

### Commissioners:

Lee E. Goodman, Chairman  
Ann M. Ravel, Vice Chair  
Caroline C. Hunter  
Matthew S. Petersen  
Steven T. Walther  
Ellen L. Weintraub

### Staff Director:

Alec Palmer

### General Counsel:

Vacant

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the Information Division, Office of  
Communications.

Toll free 800-424-9530

Local 202-694-1100

Email [info@fec.gov](mailto:info@fec.gov)

Greg Scott, Director  
Alex Knott, Sr. Writer/Editor  
Dorothy Yeager, Production  
Manager

## Commission

### **FEC Chairman Lee E. Goodman and Vice Chair Ann M. Ravel to Host Public Forum on Website Improvement**

The Federal Election Commission has launched an extensive effort to improve the Commission's website by enhancing the public's access to and the delivery of campaign finance data. In partnership with 18F, a newly formed organization within the General Services Administration (GSA), the FEC is in the process of creating an agile, navigable, intuitive, user-based online platform to better deliver campaign finance information to all of our users.

A key part of this effort is to hear from FEC website users and the public directly. As Chairman and Vice Chair, we invite you to join us on September 17, 2014 for an informal public forum to discuss the website. The forum's overall goal is to learn how the website's many visitors – including individual citizens, candidates, journalists, researchers, advocates, campaign finance practitioners, and others – currently use the FEC website, how they may use the website in the future, and how the FEC can improve its website to meet those needs. We would also like to hear suggestions from the public about the variations of data the FEC could make available to the public and how that information could best be presented or customized to satisfy user preferences. The forum will consist of two parts: (1) an open discussion with Commissioners and senior staff; and (2) working group breakout sessions with Commission staff moderated by 18F to discuss some of the technology already under development. The entire forum will be open to the public and press and will be held at the FEC, located at 999 E Street, NW, Washington D.C., on September 17, 2014. The open discussion will be held at 10:00-12:00 pm and the breakout sessions will meet from 1:00-3:00 pm.

If you would like to participate in person, please email us at [websiteforum@fec.gov](mailto:websiteforum@fec.gov). Capacity is limited, so please respond promptly. Alternatively, you may listen to the open discussion through a live audio feed available on [FEC.gov](http://FEC.gov), which requires no pre-registration.

Please note that the forum will focus solely on improving the Commission’s website and the accessibility of campaign finance data. If the discussion raises issues that suggest the need to consider revisions to or adoption of regulations or procedures, we will address such issues through our standard, formal procedures.

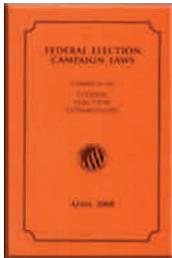
We and our colleagues welcome your participation in this public forum and look forward to hearing about your experiences, ideas and suggestions to make the FEC website a better resource for the public. If you have any questions, please feel free to contact either of our offices at 202-694-1000.

Sincerely,

Lee E. Goodman  
Chairman  
Federal Election Commission

Ann M. Ravel  
Vice Chair  
Federal Election Commission

## **FECA Moves from Title 2 to Title 52 of the US Code**



Effective September 1, 2014, the Federal Election Campaign Act (currently 2 U.S.C. §431 *et seq*) will be consolidated with other laws governing voting and elections in the new title 52 of the United States Code. Initiated by the Office of Law Revision Counsel of the United States House of Representatives (OLRC), the reorganization will renumber code sections, but will not otherwise alter the existing laws.

The FEC will compile and distribute a new version of the *Federal Election Campaign Laws* to reflect the changes. We'll announce its availability in the Record, through our [Tips for Treasurers](#) and on the [Federal Campaign Finance Laws page](#) of our website. In the interim, the OLRC has posted on its website a section-by-section [Editorial Reclassification Table](#) as well as [title 52](#) itself.

Should you have questions, please call the FEC’s Information Division at 800-424-9530 (option 6).

*(Posted 08/29/2014)*

### **Resources:**

- [Office of Law Revision Counsel to the U.S. House of Representatives](#) (OLRC)
- [Combined PDF of the conversion table and FECA](#) [PDF]

# Litigation

## ***Stop This Insanity, Inc. Employee Leadership Fund, et al. v. FEC***

On August 5, 2014, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the district court's decision to dismiss a constitutional challenge to provisions that impose limitations on a corporation's solicitations for contributions to its separate segregated fund (SSF). The court rejected the challenge brought by Stop the Insanity, Inc. (STII) and Stop This Insanity, Inc. Employee Leadership Fund (the Fund), and upheld the statutory restrictions on SSF solicitations, including provisions that generally permit SSFs to solicit only a limited class of individuals for contributions. The court noted that it lacked jurisdiction over the claims brought by the individual plaintiffs because such claims were not asserted through the mandatory jurisdictional provision in 2 U.S.C. §437h.

### **Background**

Prior to the Supreme Court's decision in *Citizens United v. FEC*, 558 U.S. 310 (2010), the Federal Election Campaign Act (the Act) generally restricted corporations from participating in the electoral process, but allowed limited, indirect corporate political activity through the establishment of an SSF. 2 U.S.C. §441b(b)(2)(C). The costs of establishing, administering and soliciting for an SSF may be paid exclusively by the SSF's sponsoring entity (the connected organization) and such costs are not subject to disclosure requirements. However, the Act imposes restrictions on SSF solicitations, including limits on who may be solicited to contribute to the SSF: Shareholders, executive and administrative personnel and the families of both groups may be solicited, but not the general public. 2 U.S.C. §441b(b)(4)(A)(i).

STII is the connected organization of the Fund, its SSF. STII wished to be able to solicit the general public for contributions to a separate account that was to be opened by the Fund and used solely to make independent expenditures, while not disclosing its payments for the administrative and solicitation costs of the Fund. The U.S. District Court for the District of Columbia [dismissed the case on November 5, 2012](#), and STII and the other plaintiffs appealed that decision to the Court of Appeals.

### **Court of Appeals Decision**

The Court of Appeals disagreed with STII's constitutional claims, holding that they fell short on the merits. The court stated that, "Simply put, Stop This Insanity would like to use its segregated fund to solicit the entire public while concealing its expenses for such solicitation."

Although Stop This Insanity, Inc. has the ability to make independent expenditures directly from its corporate treasury funds without using an SSF to do so, the court noted that it nonetheless chose to establish an SSF to make such independent expenditures: "Despite the availability of a more robust option—at least when it comes to independent expenditures—the Corporation has decided to do things the hard way. And now, trapped in a snare it has fashioned for itself, STII decries its inability to use the [SSF] in the way it sees fit—without the limits Congress attached to the operation of these funds."

The court wrote that a "critical flaw" in STII's argument was that it voluntarily chose a more complicated means of engaging in its political speech than it had to use and

"claims [that] there is a constitutional right to do things the hard way. We cannot sanction such an illogical conclusion." The court further noted that no PAC has the ability to make solicitations of the general public (as opposed to only a limited class of individuals) for contributions to pay for political speech without disclosing who is funding the PAC's administrative and solicitation expenses.

The court explained that solicitation restrictions do not restrict the manner or amount in which a PAC may spend money, and held that the solicitation restrictions challenged by STII "are not properly treated as constraints on independent expenditures," nor do they "silence" a particular speaker.

The court declined to accept the argument of STII, writing that STII already is capable of conducting broad solicitations, yet "it wants a vehicle capable of soliciting without transparency." In affirming the District Court's dismissal, the Court of Appeals held that "[i]f the Fund wishes to solicit freely, it must do so in the light."

*(Posted 08/07/2014; By: Myles Martin)*

#### **Resources:**

- [STII v. FEC Ongoing Litigation Page](#)
- [AOR 2012-01](#) [PDF]
- [Recent Developments in the Law](#)

### ***La Botz v. FEC***

On July 25, 2014, the U.S. District Court for the District of Columbia dismissed a lawsuit filed by former U.S. Senate candidate Dan La Botz challenging the Commission's decision to dismiss an administrative complaint he submitted in 2010. In that complaint, Mr. La Botz alleged he had been unlawfully excluded from televised candidate debates in Ohio.

#### **Background**

Mr. La Botz's lawsuit – filed on July 1, 2013 – arises from a previous challenge filed in the same court in July 2011 (*La Botz v. FEC*, 11-1247RC). In that case, Mr. La Botz alleged that the Commission wrongfully dismissed the administrative complaint that he filed against the Ohio News Organization and its member newspapers (ONO). Mr. La Botz alleged that the ONO failed to use pre-established and objective standards when inviting participants to a series of televised debates from which Mr. La Botz was excluded, and as a result, the costs of the debates constituted prohibited, in-kind corporate contributions to the participating campaigns. The Commission dismissed the administrative complaint, finding no reason to believe that ONO violated the Federal Election Campaign Act (the Act) or Commission regulations because ONO's criteria for participation in the debate were pre-established and objective. On September 5, 2012, the district court concluded that the Commission's dismissal of the administrative complaint was not supported by substantial evidence and remanded the matter to the agency. *La Botz v. FEC*, 889 F. Supp. 2d 51 (D.D.C. 2012).

Upon remand, the Commission exercised its prosecutorial discretion and again dismissed Mr. La Botz's administrative complaint. It concluded that there was insufficient

evidence to provide reason to believe that the ONO failed to use pre-established objective criteria in selecting debate participants. The Commission also decided that further pursuit of the matter would not be an efficient use of the agency's limited resources.

### **Court Complaint**

In response, Mr. La Botz filed a second complaint with the district court alleging that the Commission erred as a matter of law in dismissing the complaint in the remanded matter (*La Botz v. FEC*, 13-997RC). He alleged that the Commission's findings contradicted the district court's holdings, the Act and the Commission's regulations. Mr. La Botz sought a declaration from the court that the Commission's dismissal of his administrative complaint was arbitrary and capricious, contrary to law, and an abuse of discretion. On September 13, 2013, the Commission filed a motion to dismiss for lack of subject matter jurisdiction and failure to state a claim.

### **Court Decision**

The court agreed with the FEC that it lacked jurisdiction because Mr. La Botz did not have standing. To meet the constitutional requirements of standing, a plaintiff must show at the time the suit commences that 1) he has suffered an injury in fact; 2) there is a causal connection between the alleged injury and the conduct at issue that is fairly traceable to the defendant; and 3) it is likely that the injury will be redressed by a favorable decision. *La Botz v. FEC*, \_\_\_ F. Supp. 2d \_\_\_, 2014 WL 3686764 (D.D.C. July 25, 2014), citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, and *Del Monte Fresh Produce Co. v. U.S.*, 570 F.3d 316, 324 (D.C. Cir. 2009).) The court determined that Mr. La Botz did not have standing when he filed his 2013 claim because his injury was no longer redressable: Mr. La Botz said that he would not run for office in Ohio, since he has relocated to New York. "Given that he will not be running for office again in Ohio, a favorable decision by this court will not redress his injuries, as the ONO's selection criteria will no longer affect his campaigning." Since there was no way for the court to redress Mr. La Botz's injury, the court found that he lacked standing.

The court added that even if it found Mr. La Botz had standing, it also lacked jurisdiction because the case is moot. To overcome an argument of mootness, the challenged practices must be "capable of repetition, yet evading review." The court found that Mr. La Botz could not demonstrate a reasonable expectation that he (or a similarly situated party) would be subject to the ONO's alleged unfair debate practices in the future. "The ONO's debate selection criteria are now pre-existing and in written form, so there is no chance that a candidate ... will be subject to purportedly post-hoc rationales by the ONO." Further, since Mr. La Botz has relocated to New York, it is no longer likely that he will run for Senate again in Ohio and would not be subject to the same action by the ONO. Therefore, the court held that Mr. La Botz's claim is moot and the court therefore lacks jurisdiction.

The court then concluded that even if it found jurisdiction, it would still dismiss the case on the merits given the Commission's broad prosecutorial discretion. It found that Mr. La Botz failed to meet the substantial burden of showing that the Commission's dismissal of his complaint was contrary to law or an abuse of discretion. The court determined that it was "entirely reasonable for the FEC to opt not to pursue Mr. La Botz's claim, but rather to expend its resources on more salient and potentially fruitful matters."

(Posted 08/05/2014; By: Zainab Smith)

### **Resources:**

- *La Botz v. FEC* [Ongoing Litigation Page](#)
- Record Article: [La Botz v. FEC](#)
- MUR 6383: [Complaint](#)

## ***CREW v. FEC – Case 1:14-cv-01419-CRC, D.D.C.***

On August 20, 2014, Citizens for Responsibility and Ethics in Washington (CREW) and its executive director, Melanie Sloan, filed suit against the FEC in the U.S. District Court for the District of Columbia, challenging the Commission's dismissal of their administrative complaints against the American Action Network (AAN) and Americans for Job Security (AJS). The plaintiffs allege that the Commission's dismissal was "arbitrary, capricious, an abuse of discretion, and contrary to law." The plaintiffs further allege that the Commission has adopted a "de facto regulation ... without notice" interpreting the "'major purpose' test" for political committee status "as limited to a consideration of express advocacy (or its functional equivalent) only, conducted during an ill-defined and ever-changing period of time."

### **Background**

In 2012, CREW and Melanie Sloan filed complaints with the FEC against AJS (MUR 6538) and AAN (MUR 6589) alleging that the major purpose of the groups was the nomination or election of federal candidates. Based on that—and the amounts each group had spent on federal elections—CREW believed that AJS and AAN had violated the Federal Election Campaign Act (the Act) and Commission regulations requiring them to register as political committees and to file reports disclosing their receipts and disbursements. 2 U.S.C. §§433(a) and 434(a)(4); 11 CFR 102.1(d) and 104.1(a). The Commission, by a vote of three to three, did not find reason to believe that either AJS or AAN had violated the Act, and closed both cases.

### **Legal Provisions**

The Act and Commission regulations generally define the term "political committee" to include any group that raises or spends more than \$1,000 during a calendar year for the purpose of influencing federal elections. 2 U.S.C. §431(4)(A); 11 CFR 100.5(a). In its landmark [Buckley v. Valeo decision](#), the Supreme Court wrote that this definition need only include organizations whose "major purpose . . . is the nomination or election of a candidate." 424 U.S. 1, 79.

### **Court Complaint**

The plaintiffs ask the court to declare the FEC's dismissal of their administrative complaints and its reliance on an alleged "de facto regulation" regarding major purpose to be arbitrary, capricious, an abuse of discretion, and contrary to law. They ask the court to enjoin the FEC from relying on its purported interpretation of the major purpose test and to order the Commission to conform to the court's declaration within 30 days.

*(Posted 08/26/2014; By: Chris Berg)*

### **Resources:**

- [CREW v. FEC \(01419\) Ongoing Litigation Page](#)

## Advisory Opinions

### **AO 2014-07: Website May Use FEC Data, Other Info to Match Donors to Candidates**

A for-profit corporation may create and operate a website that uses FEC contributor data and other information to help visitors identify and contribute to candidates, as well as prospective candidates and eventual party nominees that visitors support.

#### **Background**

Crowdpac is a non-partisan, for-profit corporation that plans to create an online “data-driven political ‘marketplace’” in which a computer algorithm will pull together information from FEC reports and other public sources to help voters “find and support candidates who share their priorities and positions on issues.” Candidates themselves will also have an opportunity to supply content, including videos.

Crowdpac, itself, will not process contributions from its website users, but will contract with Democracy Engine, whose online processing platform was approved in [Advisory Opinion \(AO\) 2011-06](#). A fee will be deducted from each contribution to cover their respective costs and provide a reasonable profit.

Crowdpac asked whether it could conduct online business under its proposed model without violating the Federal Election Campaign Act (the Act) and Commission regulations.

#### **Analysis**

Crowdpac’s proposal touches upon several provisions of the Act and Commission regulations, including the ban on corporate contributions (2 U.S.C. §441b(a); 11 CFR 114.2 (b)(1)); rules for collecting, forwarding and reporting earmarked contributions (2 U.S.C. §441a(a)(8); 11 CFR 110.6); and restrictions on the sale and use of contributor information taken from FEC reports (2 U.S.C. §438(a)(4); 11 CFR 104.15).

The Commission has approved proposals similar to Crowdpac’s in previous advisory opinions. For instance, Crowdpac’s plan to provide all candidates an equal opportunity to submit content for the site is similar to a proposal approved in [AO 2012-22](#) (skimmerhat). In that AO, and others similar to it, the Commission has determined that such plans do not result in a prohibited contribution from the corporation to the candidates. See also [AOs 1999-25](#) (Democracy Net) and [1999-24](#) (Election Zone).

Similarly, the Commission has concluded that companies that process contributions as a service to contributors without receiving compensation from the recipient political committees are not making contributions because the companies are not providing any services to the recipient political committees. See, e.g., [AOs 2012-22](#) (skimmerhat); [2011-19](#) (GivingSphere); and [2011-06](#) (Democracy Engine). As such, neither Crowdpac’s services nor the fees paid for those services result in a prohibited contribution to the recipient committees.

One of the services Crowdpac will offer its users is the option to make contributions for eventual nominees or prospective candidates. Democracy Engine’s PAC will collect and forward those contributions, but will not exercise any direction or control over the contributions. Absent such direction or control, the Act provides that “all contributions

made by a person, either directly or indirectly ... including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to [a] candidate, shall be treated as contributions from such person to such candidate.” Democracy Engine’s PAC will transmit the contributions and applicable records within the required timeframes and will file the necessary FEC reports to disclose its conduit activity. See 2 U.S.C. §441a (a)(8) and 11 CFR 110.6.

Information copied from Commission reports cannot be “sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.” 2 U.S.C. §438(a)(4); see also 11 CFR 104.15(a). The provision reflects Congress’s concern in protecting the privacy of donors. Crowdpac plans to use information derived from Commission reports to display aggregated campaign finance data about candidates and to use such data in its algorithm. It also plans to display on its website the names, cities and states of individual contributors identified in FEC reports. The Commission concluded that these uses of FEC data do not violate the sale and use restrictions.

*Date Issued: August 14, 2014; Length: 12 pages.*

*(Posted 08/22/2014; By: Alex Knott)*

**Resources:**

- [Advisory Opinion 2014-07](#) [PDF]
- [Commission Discussion of AO 2014-07](#) 
- Brochure: [Sale and Use of Information from FEC Reports](#)

## **AO 2014-09: Consulting Firm May Market Credit Card Affinity Program to Political Committees**

A consulting firm may partner with banks to develop and market an affinity credit card program for political committees. The firm would offer individuals listed on the committees’ mailing lists credit cards that provide monthly rebates on purchases. The individuals would have the option to designate those rebates as contributions to the committee. Since this activity is in the ordinary course of business of the consulting firm, the recipient political committees would be required to pay the usual and normal cost of such services, and any funds contributed under the program would be the exclusive property of the cardholders, the Commission concluded that the proposed affinity program is permissible.

### **Background**

REED Marketing Consultants, Inc. (RMC) is a consulting firm that specializes in financial services and credit card businesses. RMC proposes to develop and market an affinity credit card program between banks and political committees, including national party committees.

In general, an affinity program is a relationship between a business that offers a product or service and an organization (such as a charitable organization or a political committee) that endorses or sponsors the business’ product or service to its members, supporters or other interested persons.

Under the proposal, RMC will market the banks' credit cards to individuals on the committees' mailing lists and inform them that he or she has prequalified for a credit card that will offer them monthly rebates. The cardholders will then have the option to receive the rebates in cash or to designate the rebates as contributions to the political committee.

If cardholders choose to forward their rebates to a committee as contributions, the issuing bank will remit the rebate directly to the committee. RMC will not receive, handle or process rebates or contributions. Any required contributor information acquired during the application process will be forwarded to the recipient political committee.

RMC maintains that its proposed affinity credit card program is similar to other programs that it provides to non-political organizations and businesses. Political committees that participate in this program will provide, as compensation to RMC, use of the committee's mailing list and trademarks; an acquisition fee for each new cardholder; and a monthly administration fee.

### **Analysis**

The Federal Election Campaign Act (the Act) and Commission regulations prohibit corporations from making any contribution to federal candidates or political committees, which includes anything of value. 2 U.S.C. §441b(a) and 11 CFR 114.2(b)(1). "Anything of value" includes all in-kind contributions, including the provision of goods or services without charge or at less than the usual and normal charge. 11 CFR 100.52(d)(1). "Usual and normal charge" is defined as the price of goods in the market from which they ordinarily would have been purchased at the time of the contribution, or the commercially reasonable rate prevailing at the time the services were rendered. 11 CFR 100.52(d)(2).

Corporations are also prohibited from "facilitating the making of contributions" to political committees, which means using corporate resources or facilities to engage in fundraising activities in connection with federal elections, unless the corporation provides the goods or services as a "commercial vendor" in the ordinary course of business at the usual and normal charge. 11 CFR 114.2(f). Commission regulations define a commercial vendor as "any person providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease, or provision of those goods or services." 11 CFR 116.1(c).

*Usual and Normal Charge* – In its proposed affinity credit card program, RMC would provide several services to a political committee such as marketing the program to individuals on the committee's mailing list, establishing a relationship between the issuing banks and the committee and forwarding contributor information. RMC states that it markets similar arrangements with other organizations and businesses that are not political in nature and that RMC would also receive fees from the committee that reflect the usual and normal charge for RMC's services. Based on these facts, the Commission concluded that RMC would be acting as a commercial vendor and that by providing the services to the committee, RMC would neither make, nor facilitate the making of contributions to the committee.

*Rebates as Contributions* – In approving other affinity programs where a rebate or reward was offered to individual customers, the Commission has found the rebate to be the property of the individual rather than of the corporate affinity partner. See [AOs 2010-06](#) (Famos) and [2003-16](#) (Providian National Bank). RMC's rebate proposals would similarly be offered to cardholders in the ordinary course of business and the rebates would be the exclusive property of the cardholder. Since neither RMC nor the bank issuing the rebate would have any control over a cardholder's discretion to designate them as contributions, the proposed affinity program is permissible.

*Solicitation Disclaimers* – As the Act and Commission regulations require that solicitations of contributions by any person to a political committee include certain disclaimers, RMC has stated that it will include any required disclaimers in the marketing materials of the program that are sent to potential cardholders. See [AO 2006-34](#) (Working Assets).

*Date Issued: August 14, 2014; Length: 5 pages.*

*(Posted 08/20/2014; By: Myles Martin)*

**Resources:**

- [Advisory Opinion 2014-09](#) [PDF]
- [Commission Discussion of AO 2014-09](#)

### **AO 2014-10: Commission Approves Use of Campaign Funds to Purchase Book**

A principal campaign committee may use campaign funds to purchase copies of the candidate’s book without the purchase resulting in personal use or an in-kind contribution from the publisher.

#### **Background**

Joan Farr is a candidate for the U.S. Senate in Oklahoma. In 2003, Ms. Farr wrote a book entitled *Ten Secrets You Must Know before Hiring a Lawyer*, which was published by the Association for Honest Attorneys (AHA), a non-profit corporation that Ms. Farr founded. Ms. Farr’s principal campaign committee, Joan Farr for U.S. Senate (the Committee), would like to purchase up to 200 copies of her book from AHA at a standard, discounted price of \$5 per book, a price that would be available to any other person purchasing the same number of books. Ms. Farr states that the books will be distributed to contributors to her committee and that she will not receive any direct or indirect royalties from AHA as a result of the Committee’s purchase of the book. Ms. Farr asks whether the Committee may purchase the books at the discounted rate and whether the purchase would result in an in-kind contribution from AHA.

#### **Analysis**

The Federal Election Campaign Act (the Act) and Commission regulations permit authorized committees to spend campaign funds to finance activities in connection with the candidate’s campaign for federal office; however, such spending must not result in the conversion of campaign funds to “personal use.” 2 U.S.C. §§439a(a)(1), 439a(b); 11 CFR 113.1(g) and 113.2(e). Under the Act, “a contribution or a donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation or expense of a person that would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of Federal office.” 2 U.S.C. §439a(b)(2); 11 CFR 113.1(g). The Act and Commission regulations provide a non-exhaustive list of uses of campaign funds that would constitute per se personal use, but for uses not on this list, the Commission will determine on a case-by-case basis whether they constitute personal use. See 2 U.S.C. §439a(b)(2); 11 CFR 113.1(g)(1)(i)-(ii).

In previous advisory opinions, the Commission determined that an authorized committee’s use of campaign funds to purchase copies of the candidate’s book was not personal use since the purchase would defray an expense that would not have existed irrespective of the campaign. See [Advisory Opinions 2014-06](#) (Ryan), [2011-02](#) (Brown) and [2001-08](#) (Specter). In these cases, the Commission considered whether the books

were purchased solely for distribution to the committee's contributors and supporters (and thus would be used only for the purpose of influencing the candidate's election to federal office) and whether the candidate would receive any royalties as a result of the purchase. In this case, the Commission determined that the Committee's purchase of the books would be "in connection with" Ms. Farr's election since the purchase would be solely for distribution to contributors and supporters. Also, Ms. Farr would not receive any royalties resulting from the Committee's purchase of the book. Therefore, the Commission concluded that the purchase would not be personal use since it will defray an expense that would not exist irrespective of Ms. Farr's campaign. However, in a footnote to its opinion, the Commission noted that the reason that Ms. Farr was not receiving a salary as CEO of AHA was due to insufficient donations and sales of the book. A change in these facts could affect the Commission's analysis—"If the Publisher were to use the funds generated from Ms. Farr's campaign's purchase of your book to pay your salary as C.E.O., such payments could present a personal use issue."

Finally, the Commission concluded that the Committee's purchase of Ms. Farr's book from AHA at a discounted rate that would be available to any other purchaser of the same quantity of the book would not result in an in-kind contribution from AHA to the Committee. The term "contribution" includes "anything of value" given for the purpose of influencing an election or given by a corporation to a political committee in connection with a federal election. 2 U.S.C. §431(8)(A)(i), 441b(b)(2); 11 CFR 100.52(a), 114.1(a). However, the sale of goods at a discount does not result in a contribution when the discount is made available in the ordinary course of business and on the same terms and conditions available to the vendor's other customers that are not political organizations or committees. In this case, the Committee will pay AHA a standard, discounted price that would be available to any other person wishing to purchase the same quantity of the book from AHA. Therefore, the Committee's payment of this standard, discounted rate will not result in a contribution from AHA.

*Date Issued: August 14, 2014; Length: 4 pages.*

*(Posted 08/22/2014; By: Zainab Smith)*

**Resources:**

- [Advisory Opinion 2014-10](#) [PDF]
- [Commission Discussion of AO 2014-10](#) 

## Compliance

### **FEC Cites Committees in Michigan, Missouri and Washington for Failure to File 12-Day Pre-Primary Reports**

On August 1, 2014, the Federal Election Commission cited four campaign committees for failing to file their 12-Day Pre-Primary Election Report required by the Federal Election Campaign Act of 1971, as amended (the Act), for primary elections being held on August 5, 2014.

As of August 1, 2014, the required disclosure report had not been received from:

- Committee to Elect George Brikho (MI-09);
- Skinner for Congress '14 (MI-11);

- John Webb for Congress (MO-04); and
- Marty McClendon for Congress Committee (WA-06)

The reports were due on July 24, 2014, and should have included financial activity for the period of July 1, 2014 through July 16, 2014.

The Commission notified committees involved in these primary elections of their potential filing requirements on June 30, 2014. Those committees that did not file on the due date were sent notification on July 25, 2014, that their reports had not been received and that their names would be published if they did not respond within four business days. 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.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, may also need to file pre-primary reports if they make previously undisclosed contributions or expenditures within the coverage dates for the report. Those committee names are not published by the FEC.

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

*(Posted 08/04/2014)*

**Resources:**

- [FEC Non-Filer Press Release](#)
- [Compliance Map](#)
- [The Administrative Fine Program](#)
- [FEC Reporting Dates](#)
- [Late Filing and Other Enforcement Penalties](#) (Reports Analysis Division)

**FEC Cites Committee in Minnesota for Failure to File 12-Day Pre-Primary Report**

The Federal Election Commission cited a campaign committee today for failing to file the 12-Day Pre-Primary Election Report required by the Federal Election Campaign Act of 1971, as amended (the Act), for Minnesota's primary election that is being held on August 12, 2014.

As of August 7, 2014, the required disclosure report had not been received from:

- Kevin Terrell US Senate Candidate (MN)

The report was due on July 31, 2014, and should have included financial activity for the period July 1, 2014, through July 23, 2014. If sent by certified or registered mail, the report should have been postmarked by July 28, 2014.

The Commission notified committees involved in the Minnesota primary election of their potential filing requirements on July 7, 2014. Those committees that did not file on the due date were sent notification on August 1, 2014 that their reports had not been received and that their names would be published if they did not respond within four business days. 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.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, may also need to file pre-primary reports if they make previously undisclosed contributions or expenditures within the coverage dates for the report. Those committee names are not published by the FEC.

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

*(Posted 08/11/2014)*

**Resources:**

- [FEC Non-Filer Press Release](#)
- [Compliance Map](#)
- [The Administrative Fine Program](#)
- [FEC Reporting Dates](#)
- [Late Filing and Other Enforcement Penalties](#) (Reports Analysis Division)

### **FEC Cites Committee in Wyoming for Failure to File 12-Day Pre-Primary Report**

The Federal Election Commission cited a campaign committee on August 15 for failing to file the 12-Day Pre-Primary Election Report required by the Federal Election Campaign Act of 1971, as amended (the Act), for Wyoming's primary election that is being held on August 19, 2014.

As of August 14, 2014, the required disclosure report had not been received from:

- Charlie Hardy for US Senate (WY)

The report was due on August 7, 2014, and should have included financial activity for the period July 1, 2014, through July 30, 2014. If sent by certified or registered mail, the report should have been postmarked by August 4, 2014.

The Commission notified committees involved in the Wyoming primary election of their potential filing requirements on July 14, 2014. Those committees that did not file on the due date were sent notification on August 8, 2014 that their reports had not been received and that their names would be published if they did not respond within four business days.

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.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, may also need to file pre-primary reports if they make previously undisclosed contributions or expenditures within the coverage dates for the report. Those committee names are not published by the FEC.

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

*(Posted 08/20/2014)*

**Resources:**

- [FEC Non-Filer Press Release](#)
- [Compliance Map](#)
- [The Administrative Fine Program](#)
- [FEC Reporting Dates](#)
- [Late Filing and Other Enforcement Penalties](#) (Reports Analysis Division)

## **FEC Cites Committee in Louisiana for Failure to File 12-Day Pre-Primary Report**

The Federal Election Commission cited a campaign committee on August 19 for failing to file the 12-Day Pre-Primary Election Report required by the Federal Election Campaign Act of 1971, as amended (the Act).

As of August 18, 2014, the required disclosure report had not been received from:

- McMorris for Senate (LA)

In [Advisory Opinion 2000-29](#), the Commission determined that the last day to qualify for a position on the general election ballot in Louisiana must be considered the primary election date for Louisiana candidates. In the current cycle, this date is August 22, 2014.

The Louisiana pre-primary report was due on August 10, 2014, and should have included financial activity for the period July 1, 2014, through August 2, 2014. If sent by certified or registered mail, the report should have been postmarked by August 7, 2014.

The Commission notified committees involved in the Louisiana election of their potential filing requirements on July 17, 2014. Those committees that did not file on the due date were sent notification on August 11, 2014 that their reports had not been received and that their names would be published if they did not respond within four business days.

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.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, may also need to file pre-primary reports if they make previously undisclosed contributions or expenditures within the coverage dates for the report. Those committee names are not published by the FEC.

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

*(Posted 08/20/2014)*

**Resources:**

- [FEC Non-Filer Press Release](#)
- [Compliance Map](#)
- [The Administrative Fine Program](#)
- [FEC Reporting Dates](#)
- [Late Filing and Other Enforcement Penalties](#) (Reports Analysis Division)

## **FEC Cites Committees in Arizona, Florida and Vermont for Failure to File 12-Day Pre-Primary Report**

The Federal Election Commission cited 15 campaign committees today for failing to file the 12-Day Pre-Primary Election Report required by the Federal Election Campaign Act of 1971, as amended (the Act), for primaries being held on August 26, 2014.

As of August 21, 2014, the required disclosure report had not been received from:

- Neree for U.S. Congress (FL-24)
- Mikel Weisser for U.S. Congress (AZ-04)
- Cox for Congress (FL-06)
- Elect April Freeman (FL-19)
- Jorge Bonilla for U.S. Congress, Inc. (FL-09)
- Peter Vivaldi for Congress (FL-09)
- Lorenzo "Larry" Palomares-Starbuck for Congress (FL-26)
- Calvin D. Turnquest for Congress (FL-18)
- Wes Neuman for Congress (FL-07)
- Henry Lawrence for Congress LLC (FL-16)
- Hires for Congress (FL-18)
- Nick Wukoson Campaign (FL-18)
- Kelly Shirley for Congress (FL-07)
- Az Maupin for Congress (AZ-07)
- Donka for Congress (VT-00)

The pre-primary report was due on August 14, 2014, and should have included financial activity for the period July 1, 2014, through August 6, 2014. If sent by certified or registered mail, the report should have been postmarked by August 11, 2014.

The Commission notified committees involved in the election of their potential filing requirements on July 21, 2014. Those committees that did not file on the due date were sent notification on August 15, 2014 that their reports had not been received and that their names would be published if they did not respond within four business days.

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.

Other political committees that support Senate and House candidates in elections, but are not authorized units of a candidate's campaign, may also need to file pre-primary reports if they make previously undisclosed contributions or expenditures within the coverage dates for the report. Those committee names are not published by the FEC.

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

*(Posted 08/22/2014)*

#### **Resources:**

- [FEC Non-Filer Press Release](#)
- [Compliance Map](#)
- [The Administrative Fine Program](#)
- [FEC Reporting Dates](#)
- [Late Filing and Other Enforcement Penalties](#) (Reports Analysis Division)

## Reporting

### **Virginia Special Election Reporting: 7th District**



Virginia will hold a Special General Election to fill the U.S. House seat in Virginia's 7th Congressional District vacated by Representative Eric I. Cantor. The Special General will be held November 4, 2014. <sup>[fn1]</sup> Candidate committees involved in this election must follow the reporting schedule posted at [http://www.fec.gov/pages/report\\_notices/2014/va07.shtml](http://www.fec.gov/pages/report_notices/2014/va07.shtml).

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<sup>1</sup> Parties were required to file certificates of nomination with the state by August 15, 2014, which was also the ballot access deadline for independent candidates.

That schedule also applies to PACs and party committees that participate in the election 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. 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.* 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 <sup>[fn2]</sup> will be considered timely filed if the report is received by the delivery service on or before the mailing/filing 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 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 or more between October 16 and November 2 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

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<sup>2</sup> "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 online tracking system.

expenditures that aggregate at or above \$10,000 prior to October 16 for the Special General.

### **Electioneering Communications**

The 60-day electioneering communications period in connection with the Special General Election 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 08/21/2014; By: Katherine Carothers)*

### **Resources:**

- [Virginia 7th District Special Election Prior Notice](#)
- [2014 Reporting Dates](#)
- [Virginia 7th District Special Election Compliance Page](#)
- [Federal Register Notice](#) [PDF]