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INFORMATION

PARTY COORDINATED EXPENDITURE LIMITS -- 1984

Party committees may make limited, special expenditures on behalf of their candidates in the 1984 general elections. 2 U.S.C. §441a(d); 11 CFR 110.7. These special expenditures count neither as contributions to the candidate nor as expenditures by the candidate or the candidate's authorized committees. The party committee may coordinate the expenditures with the candidate's campaign, but the party committee -- not the candidate -- must report them, using Schedule F of FEC Form 3X.

National party committees have separate spending limits for Presidential, Senate and House candidates in the general election. State party committees are subject to separate spending limits for Senate and House general election candidates in their respective states. (State parties do not have a separate spending limit for their party's Presidential nominee.*) Within a state, all expenditures made on behalf of one candidate by the state party committee or any subordinate party committee (e.g., county, district, local) are subject to **one** spending limit.

The formulas for the party spending limits in 1984 are based on state voting age population estimates (as of July 1, 1983) from the Department of Commerce, and the increase in the consumer price index (CPI) certified by the Secretary of Labor. They are calculated as follows:

How to Calculate Presidential Limit

The formula for the Presidential limit for a national party is the U.S. voting age population (VAP) x \$.02, increased according to the 1983 change in the consumer price index (102 percent). A national party committee's spending limit for the 1984 general election is \$6,924,802.40.

**A designated agent of the national party committee (e.g., a state party committee or a local party organization) may, however, make coordinated party expenditures on behalf of the party's Presidential candidate, but only if the agent receives prior authorization to do so by the national party committee. 11 CFR 110.7(a)(4)*

How to Calculate Senate Limit

The Senate formula is the state voting age population (VAP) x \$.02, increased according to the 1983 change in the consumer price index (102 percent); or \$20,000 (increased by the change in the CPI), whichever is greater. (See chart below.)

How to Calculate House Limit

The House limit depends on the number of districts in the state. For House candidates in states with more than one district (and candidates for Delegate from the District of Columbia, Guam and the Virgin Islands or for Resident Commissioner from Puerto Rico), the limit is \$10,000 (increased by the 1983 change in the CPI) or \$20,200 during 1984. For House candidates in states entitled to only one representative, the limit is the same as that for Senate candidates. (See above.)

Chart on Senate Limits

The Commission has compiled the following chart for 1984 limits on party spending for Senate candidates in the general election. The Senate
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limit also applies to candidates for the House, in those states which have a single Representative. In the chart, an asterisk (*) indicates those states having only one Representative. VAP figures in the chart are in thousands.

State	VAP (Thousands)	1984 Party Spending Limits
Alabama	2,845	\$114,938.00
Alaska*	325	40,400.00
Arizona	2,129	86,011.60
Arkansas	1,677	67,750.80
California	18,624	752,409.60
Colorado	2,293	92,637.20
Connecticut	2,378	96,071.20
Delaware*	451	40,400.00
Florida	8,225	332,290.00
Georgia	4,110	166,044.00
Hawaii	739	40,400.00
Idaho	671	40,400.00
Illinois	8,378	338,471.20
Indiana	3,957	159,862.80
Iowa	2,118	85,567.20
Kansas	1,778	71,831.20
Kentucky	2,676	108,110.40
Louisiana	3,082	124,512.80
Maine	838	40,400.00
Maryland	3,212	129,764.80
Massachusetts	4,389	177,315.60
Michigan	6,552	264,700.80
Minnesota	3,016	121,846.40
Mississippi	1,787	72,194.80
Missouri	3,659	147,823.60
Montana	583	40,400.00
Nebraska	1,156	46,702.40
Nevada	662	40,400.00
New Hampshire	708	40,400.00
New Jersey	5,598	226,159.20
New Mexico	969	40,400.00
New York	13,246	535,138.40
North Carolina	4,481	181,032.40
North Dakota*	485	40,400.00
Ohio	7,836	316,574.40
Oklahoma	2,380	96,152.00
Oregon	1,953	78,901.20
Pennsylvania	8,950	361,580.00
Rhode Island	728	40,400.00
South Carolina	2,337	94,414.80
South Dakota*	496	40,400.00
Tennessee	3,437	138,854.80
Texas	11,083	447,753.20
Utah	1,010	40,804.00

State	VAP (Thousands)	1984 Party Spending Limits
Vermont*	385	40,400.00
Virginia	4,126	166,690.40
Washington	3,154	127,421.60
West Virginia	1,425	57,570.00
Wisconsin	3,463	139,905.20
Wyoming*	355	40,400.00

Delegate/Resident Commissioner Candidates

District of	VAP (Thousands)	1984 Party Spending Limits
Columbia	488	\$ 20,200.00
Guam	66	20,200.00
Puerto Rico	2,025	20,200.00
Virgin Islands	60	20,200.00



REGULATIONS ON TRADE ASSOCIATION AUTHORIZATIONS PRESCRIBED

On February 9, 1984, the Commission prescribed revised regulations governing the request and receipt of solicitation authorizations that a trade association must obtain from its corporate members before soliciting their stockholders and executive and administrative personnel. 11 CFR 114.8(c)(2), (d)(2) and (d)(4). Intended to streamline procedures, the new regulations permit trade associations to obtain solicitation approvals from their corporate members in a year prior to the year in which they actually conduct the solicitations. The new regulations also permit trade associations to obtain corporate approvals for several years at a time; a separate approval document is required, however, for each year approved.

A summary of these regulations appeared on page 6 of the November 1983 Record. The full text of the proposed rules was published in the Federal Register on October 20, 1983 (48 Fed. Reg. 48650). The announcement of the effective date of these rules appeared in the Federal Register on February 9, 1984 (49 Fed. Reg. 4932). Copies of the new regulations may be obtained by writing the FEC's Public Communications Office, 1325 K Street, N.W., Washington, D.C. 20463 or by calling: 202/523-4068 or toll free 800/424-9530.

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FEC SEEKS COMMENTS ON TESTING-THE-WATERS REGULATIONS

On January 17, 1984, the Commission published an advance notice of proposed rulemaking in the Federal Register, which sought comments on possible revisions to FEC Regulations on "testing the waters," i.e., activities undertaken by an individual to test the feasibility of a potential candidacy (49 Fed. Reg. 1995). See 11 CFR 100.7(b)(1), 100.8(b)(1) and 101.3. Any revisions to these regulations would not become effective before January 1985.

Background: Current Regulations

The Commission requested comments on whether the regulations should be retained in their present form. Under current regulations, an individual may receive and expend funds to determine whether or not to become a candidate, without triggering his/her status as a "candidate"* under the Act. Financial records of such activities must nevertheless be maintained because, if the individual later becomes a candidate, the funds received and payments made for testing the waters are considered "contributions" (subject to the Act's limits and prohibitions) and "expenditures." As such, they must be reported with the first report filed by the campaign. In addition, any excessive or prohibited contributions received during the testing-the-waters period must be refunded within 10 days after the individual becomes a candidate. 11 CFR 100.7(b)(1), 100.8(b)(1) and 101.3.

Under the regulations, an individual may finance a variety of exempt activities to test the feasibility of a potential candidacy for federal office as long as the activities do not entail public political advertising (e.g., t.v. or newspaper ads), do not seek funds to be used once the campaign is underway and do not represent the establishment of a campaign organization.

Under current regulations, testing-the-waters activities include, but are not limited to, disbursements for conducting polls, telephone calls and travel to determine whether an individual should become a candidate. In several advisory opinions, the Commission has said that testing-the-waters activities also include hiring political consultants and purchasing or leasing office space, equipment and supplies, but not making written or oral statements which refer to an individual as a

*An individual becomes a candidate for federal office (and thus triggers registration and reporting obligations under the Act) when his/her campaign exceeds \$5,000 in either contributions or expenditures. For circumstances triggering the thresholds, see 11 CFR 100.3(a)(1)-(a)(4).

FEC CLINIC

This month, the FEC launches a new service -- the FEC Clinic. If you are new to the field of federal election law, here is an opportunity to get hands-on assistance in complying with the law. If you are assisting a committee and want to avoid mistakes -- and the extra time required to correct them -- take advantage of our Clinic.

Every Monday, between 2:00 and 4:30 p.m., auditors, reports analysts and public affairs specialists will be available to help individuals comply with the Federal Election Campaign Act. Do you have questions concerning a proposed fundraising activity or do you need assistance completing your FEC disclosure forms? Call the Office of Public Communications and schedule a visit to the Clinic. Tell us a bit about your interest, and we will have someone meet with you and give you guidance in that area. If the Clinic is booked for that day, we will make time for you later in the week. If you are interested in doing further research, we can also arrange a tour of our public offices: the Commission library, the Public Records and Public Communications Offices and the National Clearinghouse on Election Administration.

Call toll free (800)424-9530 or locally (202)523-4068 for your appointment.

"candidate" for a particular office. See AOs 1979-26, 1981-32, 1982-3 and 1982-19.

Scope of Permissible Activities

Concerns have been expressed that the Commission's interpretation of the testing-the-waters provisions has included activities beyond those originally intended. To clarify the scope of permissible testing-the-waters activities, the Commission therefore requested comments on the following issues:

1. Should the Commission's regulations be revised to specify the activities that are permissible under the testing-the-waters exemptions?
2. If so, what criteria should the Commission consider in determining permissible testing-the-waters activities?
3. What factors should the Commission consider in determining whether an individual has decided to become a candidate and is, therefore, campaigning rather than testing the waters?

continued

Application of Contribution Limits and Prohibitions to Receipts and Disbursements for "Testing-the-Waters" Activities

In AO 1982-19, the Commission determined that an individual could accept donations to test the waters which would be considered excessive or prohibited contributions under the Act. Within 10 days of becoming a candidate, however, he had to refund any unlawful contributions received during the testing-the-waters period. Some concerns have been raised that the use of such funds could increase the potential for circumvention of the Act's limits and prohibitions on contributions. The Commission therefore sought comments on

what sources of funding should be permitted during the testing-the-waters period.

Since the regulations do not expressly state whether or not the contribution limits and prohibitions apply to receipts and disbursements made for testing-the-waters activities, the Commission asked for comments on the following issues:

1. Should the Commission permit individuals to accept contributions in excess of the Act's limits for testing-the-waters activities?
2. Should the Commission permit individuals to fund testing-the-waters activities with donations from prohibited sources (e.g., from corporations or labor organizations)?

STATUS OF FEC REGULATIONS SENT TO CONGRESS

Regulations*	Date Sent to Congress	Federal Register Publication	Date Prescribed** by the Commission
11 CFR 102.6 and 102.17 Transfer of Funds; Collecting Agents, Joint Fundraising	6/2/83	6/7/83 48 Fed. Reg. 26296	8/22/83
11 CFR Part 110 Annual Honoraria Limit	NA***	11/21/83 48 Fed. Reg. 52567	11/21/83
11 CFR 114.3 and 114.4**** Communications by Corporations and Labor Organizations	10/27/83	11/21/83 48 Fed. Reg. 50502	---
11 CFR 114.8 (c)(2), 114.8(d)(2) and 114.8(d)(4) Trade Association Solicitation Authorizations	10/17/83	10/20/83 48 Fed. Reg. 48650	2/9/84
11 CFR 9001 et seq. General Election Campaign Fund	7/1/83	7/11/83 48 Fed. Reg. 31822	10/27/83
11 CFR Part 9008 Fund for Presidential Nominating Conventions	NA***	7/21/83 48 Fed. Reg. 33244	7/21/83

*The chart is cumulative, listing all amendments to FEC Regulations proposed or prescribed by the Commission since the publication of Title 11, Code of Federal Regulations (11 CFR) on July 1, 1983.

**The Commission may prescribe its regulations 30 legislative days after it has transmitted them to Congress.

***Since these technical, conforming amendments were not a substantive rule representing an FEC policy decision, they were not submitted for Congressional review but became effective upon publication in the Federal Register.

****These regulations were pending before Congress prior to the Congressional recess between November 18, 1983, and January 23, 1984. The 30 legislative days will continue to run when Congress reconvenes.

ADVISORY OPINIONS

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR Subject

- 1984-4 Eligibility of membership organization's "associate members" for PAC solicitations. (Date made public: January 24, 1984; Length: 1 page, plus 6-page supplement)
- 1984-5 Status of corporation's employees as stockholders for purposes of PAC solicitations. (Date made public: February 8, 1984; Length: 1 page, plus 4-page supplement)
- 1984-6 Cooperative bank's eligibility to insure bank depositories holding federal campaign funds. (Date made public: February 9, 1984; Length: 12 pages, plus 18-page supplement)

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1983-43: Voter Guides and Voting Records Prepared and Distributed to General Public by Nonprofit Corporation

During the 1984 primary and general election seasons, the United States Defense Committee (USDC), a nonprofit membership corporation, may prepare and distribute to the general public those nonpartisan voter guides which record incumbent candidates' positions on issues but do not favor particular candidates. On the other hand, although USDC may prepare and distribute information to its members concerning the voting records of incumbents on specific legislation, USDC may not distribute these voting records to the general

public because the language of the materials, as drafted, suggests an election-influencing purpose.

Under current Commission Regulations, as an exemption to the prohibition against corporate contributions and expenditures, a nonprofit organization* may prepare and distribute to the general public voter guides and other types of brochures describing candidates and their positions, provided: a) the material does not favor a particular candidate or party and b) the nonprofit organization is not affiliated with, and does not endorse or support, a candidate or party. 11 CFR 114.4(c)(3) and AO 1980-45.

Voter Guides

Under the nonpartisan communications exemption, USDC may compile and distribute to the public voter guides which are based on incumbent candidates' responses to USDC questionnaires concerning defense and national security issues. While the proposed guides have been designed to advocate USDC's positions on issues, they do not serve an election-influencing purpose by favoring one political party or candidate over another.

However, some of the materials proposed by USDC do not qualify for the nonpartisan communications exemption because they favor particular candidates. These voter guides characterize the candidates responses to the survey questions as being "right" or "wrong." Moreover, the materials ask supporters to contact candidates in an impending election who answered "wrong" and urge them to support USDC's position. Accordingly, to the extent these guides contain such election-influencing references, they are not permissible under the nonpartisan communications exemption.

Voting Records

USDC may not disseminate to the general public the particular type of voting records information proposed in the advisory opinion request. These proposed materials do not fall under the nonpartisan communications exemption because they have an election-influencing purpose. For example, one piece of literature refers to a Congressman's "weak voting record" and advises the recipient that an officeholder is "easier to convince . . . when he's looking for votes than . . . after he's safely in office."

The Commission noted that proposed revisions to regulations governing nonpartisan communications by corporations and labor organizations had been submitted to Congress on October 27, 1983, and

continued

*Profit corporations are required to obtain the materials from a nonprofit or civic organization.

might be prescribed in the near future. At that time, USDC could request another advisory opinion on its proposed communication activities. (Date issued: January 26, 1984; Length: 4 pages)

AO 1983-45: Matchability of Cash Contributions Converted Into Partnership Checks to Presidential Candidate

Cash contributions subsequently converted into checks issued by a partnership to Consumers for Dennis Serrette, Dennis Serrette's principal campaign committee, would not meet the matchability requirements of Commission Regulations. See 11 CFR 9034.2. (Mr. Serrette is campaigning for the Presidency in 1984 as the candidate of both the Peace and Freedom Party and the Consumer Party.)

Under its proposed plan, Consumers for Dennis Serrette (the campaign) would collect cash contributions and deposit them in a partnership account specifically established to convert the cash contributions into checks payable to the campaign. A contributor would subsequently sign statements (provided by the campaign) which authorized the conversion of his/her cash contribution into a check and which showed the amount of the contribution and the serial number the campaign had assigned it. The campaign would then forward these statements to the partnership which would, in turn, issue a check payable to the campaign for the amount indicated on the statement(s). The proposed plan would not be permissible under the Act and Commission Regulations because:

1. Contributions drawn on a partnership account may not be made on behalf of, or attributed to, individuals who have no interest in the partnership (11 CFR 9034.2 and AO 1980-67); and
2. Cash contributions must initially be deposited in an official campaign depository designated on the committee's Statement of Organization. Use of the partnership account does not comply with this requirement. 2 U.S.C. §432(h); 11 CFR 103.3(a).

(Date issued: January 26, 1984; Length: 2 pages)

AO 1983-46: State Associations' Sponsorship of National PAC Fundraising Activities

Since state associations of nurse anesthetists are related in several ways to the American Association of Nurse Anesthetists (AANA), a national membership organization, the separate segregated funds (i.e., PACS) established by the state associations are automatically affiliated with AANA's separate segregated fund, CRNA-PAC. By virtue of the affiliation between CRNA-PAC and the state associations' PACs, the state associations

may pay for administrative and solicitation expenses incurred by CRNA-PAC. The state associations may also collect contributions from their solicitable personnel and transfer them to CRNA-PAC (i.e., act as CRNA-PAC's collecting agents) because they operate as subsidiary or local units of AANA. See AO 1979-83; 11 CFR 102.6(b)(1)(ii) and (iii).

Under the Act and Commission Regulations, national and state association PACs are considered affiliated if the PACs are "established, financed, maintained or controlled" by the same national association and its related state associations. See 2 U.S.C. §441a(a)(5); 11 CFR 100.5(g)(2) and 110.3(a)(1)(ii)(D); AO 1983-28. In support of its conclusion that CRNA-PAC and the state association PACs are affiliated, the Commission cited the following relationships between the state associations and AANA, the national association:

1. Membership in a state association is concurrent with membership in AANA.
2. The state and national associations are financed by membership dues collected by AANA and allocated to each state association.
3. A state association may participate in the nomination of AANA officers.
4. Seven of AANA's regional directors must have previously served as officers of state associations.
5. Officers of state associations serve on an AANA advisory board.

(Date issued: January 26, 1984; Length: 3 pages)

AO 1983-47: Third Party Candidate's Eligibility for Presidential Matching Funds

As a candidate seeking the Presidential nomination of the Citizens Party in 1984, Ms. Sonia Johnson satisfies one of the requirements for primary matching fund eligibility under the Primary Matching Fund Payment Account (the matching fund account). 26 U.S.C. §9033(b)(2). Accordingly, Ms. Johnson may become eligible for primary matching funds during 1984, provided she satisfies all other eligibility requirements stipulated by the Act and Commission Regulations. See 26 U.S.C. §§9032 and 9033; 11 CFR Parts 9032 and 9033.

Under the matching fund account, as one condition for attaining matching fund eligibility, a Presidential primary candidate must be "seeking the nomination of a **political party**." 26 U.S.C. §9033(b)(2). (In contrast to the eligibility requirements for general election public funding, the requirements for matching fund eligibility are not based on the type of political party with which a candidate is affiliated, e.g., major, minor or new.)

For purposes of this eligibility requirement, the Citizens Party qualifies as a political party because, during June 1984, it plans to hold a national Presidential nominating convention* in accordance with prescribed delegate selection procedures. See requirements of 11 CFR 9033.3 (b)(1) and 9032.7(a).

The Citizens Party's status as a political party is further evidenced by its record of political activity. Since 1980, Citizens Party candidates have entered a total of 169 races in 24 states. Moreover, the Commission has issued several advisory opinions that have recognized the Party's status as a political party in connection with its 1980 federal election-related activities. (See AO 1980-3.) (Date issued: February 2, 1984; Length: 4 pages)

Primary Matching Fund Certification Activity*

Name of Candidate	Number of Requests**	Total Amount of Funds Certified
Askew, Reubin	6	\$ 879,429.78
Cranston, Alan	10	1,697,663.91
Glenn, John	6	2,633,657.71
Hart, Gary	6	766,594.26
Hollings, Ernest F.	5	739,131.72
Jackson, Jesse	1	272,471.22
McGovern, George	0	100,000.00
Mondale, Walter F.	9	5,195,638.01

LAROCHE CAMPAIGN INELIGIBLE FOR PUBLIC FUNDS

On January 26, 1984, the Commission made an initial determination that Lyndon H. LaRouche, Jr., a 1984 Presidential primary candidate, had failed to establish his eligibility for primary matching funds. In notifying Mr. LaRouche of its initial determination, the Commission indicated that, before it makes a final determination, it will consider any proposals Mr. LaRouche wishes to submit regarding his eligibility for public funds. (See FEC procedures for determining matching fund eligibility at 11 CFR 9033.4(b).)

Background to Initial Ineligibility Determination

To become eligible for primary matching funds, a Presidential candidate must sign a letter of agreement and certifications in which the candidate and any authorized committee(s) agree, among other requirements, to pay any civil penalties included in a conciliation agreement entered into with the FEC and to repay public funds to the U.S. Treasury, if necessary. (See 11 CFR 9033.1 and 9033.2.) In reaching its January 26 decision, the Commission considered Mr. LaRouche's failure to live up to the letter he had signed in 1979 for his 1980 campaign. The Commission found that "so long as Mr. LaRouche continues to repudiate his 1979 letter of agreements and certifications . . . there is substantial doubt that he intends to live up to the agreements and certifications contained in his 1983 letter." The Commission therefore concluded that Mr. LaRouche's "attempt to induce the Commission to certify him to receive public funds, on the basis of promises

continued



PRIMARY MATCHING FUND PAYMENTS

On February 23, 1984, the Federal Election Commission determined that George McGovern was eligible to receive primary matching funds for his 1984 primary campaign. On the same day, the Commission certified primary matching fund payments for Mr. McGovern and for six other Presidential candidates. (The U.S. Treasury will issue actual payments to the candidates.)

The summary chart below provides cumulative information on certifications of primary matching funds made to eight Presidential candidates between January 1 and February 23, 1984. For each certified candidate, the chart indicates the number of submissions of matchable contributions for primary matching funds and the total amount of funds certified by the Commission.

Candidates may submit requests for funds on the first and third Mondays of each month. The Commission certifies a percentage of the amount requested within one week of receiving the request. Only contributions from individuals which, in the aggregate, do not exceed \$250 are matchable. (For a complete explanation of the eligibility requirements for primary matching funds, consult 26 U.S.C. §9033 and Parts 9033 and 9036 of Commission Regulations.)

*Under Section 9032.7(a) of FEC Regulations, a national nominating convention is defined as part of the primary election process.

*As of February 23, 1984.

**Includes requests made after the candidate's initial request for primary matching fund eligibility.

which he has demonstrated he has no intention to fulfill, constitutes a fraudulent submission."

As evidence of Mr. LaRouche's failure to honor his 1979 letter of agreements and certifications, the Commission cited his failure to pay a \$15,000 civil penalty stipulated in a conciliation agreement resulting from the campaign's violations of the election law during 1979 and 1980.*

The Commission also cited Mr. LaRouche's failure to repay public funds to the U.S. Treasury (amounting to \$54,671.89), as determined by the Commission on December 16, 1982. On January 31, 1984, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the FEC's determination that the LaRouche campaign must repay the public funds.**

Court Actions Re: 1984 Ineligibility Determination

On January 27, 1984, in response to the Commission's initial decision to deny the LaRouche campaign's eligibility for primary matching funds, the campaign filed a suit with the U.S. Court of Appeals for the District of Columbia Circuit. (Edward Spannaus v. FEC; Civil Action No. 84-1030). The campaign asked the court to:

1. Determine that the FEC's initial ineligibility determination was unwarranted under the requirements of the Act;
2. Issue an injunction requiring the FEC to certify that the LaRouche campaign was eligible for primary matching funds; or
3. Alternatively, reverse the FEC's determination, with instructions to the FEC to process the campaign's primary matching fund submissions, regardless of any civil actions currently pending in the district court between the campaign and the FEC.

On January 30, 1984, the Commission filed its response with the appeals court. First, the FEC opposed the LaRouche campaign's request for an

**On February 9, 1983, the Commission filed a civil action with the U.S. District Court for the District of Columbia Circuit, asking the court to order the LaRouche campaign and Mr. LaRouche to pay the civil penalty, with interest. (FEC v. Citizens for LaRouche; Civil Action No. 83-0372)*

***On January 12, 1983, the LaRouche campaign had filed a petition with the U.S. Court of Appeals for the District of Columbia Circuit which sought review of the Commission's determination. (Lyndon H. LaRouche, Jr. v. FEC; Civil Action No. 83-1050). On December 13, 1983, the Commission filed a suit in the U.S. district court to recover the outstanding payment. (FEC v. LaRouche; Civil Action No. 83-0373).*

injunction or a reversal of the Commission's ineligibility determination. On the same day, the court decided not to issue the injunction or to summarily reverse the FEC's determination.

Second, the FEC filed a motion asking the appeals court to dismiss the suit for lack of jurisdiction. The Commission argued that its determination was not a "final agency action" ripe for the court's review. 26 U.S.C. §9041. The FEC argued that, even if the court had technical jurisdiction over the case, the appeal should be dismissed because the LaRouche campaign had failed to exhaust its administrative remedies. Specifically, the Commission noted that its determination of ineligibility was "only preliminary and that it may well alter its determination if an adequate showing of good faith is forthcoming." The FEC's motion to dismiss the remainder of the LaRouche campaign's suit is still pending before the court.

COMPLIANCE

SUMMARY OF MURs

The Act gives the FEC exclusive jurisdiction for its civil enforcement. Potential violations are assigned case numbers by the Office of General Counsel and become "Matters Under Review" (MURs). All MUR investigations are kept confidential by the Commission, as required by the Act. (For a summary of compliance procedures, see 2 U.S.C. §§437g and 437(d)(a) and 11 CFR Part 111.)

This article does not summarize every stage in the compliance process. Rather, the summaries provide only enough background to make clear the Commission's final determination. Note that the Commission's actions are not necessarily based on, or in agreement with, the General Counsel's analysis. The full text of these MURs is available for review and purchase in the Commission's Public Records Office.

MUR 1414: Excessive Contributions to Candidate and Prohibited Corporate Contributions

On July 20, 1983, the Commission entered into a conciliation agreement, which concerned excessive contributions made by three individuals to an independent expenditure committee, and a prohibited corporate loan to pay for independent expenditures.

Complaint

On November 25, 1981, the FEC's Reports Analysis Division referred to the Office of Gen-

eral Counsel a committee that had reported accepting a corporate contribution. The referral also noted possible violations by four individuals and a corporation. Upon review, the General Counsel recommended that the Commission find reason to believe that:

- The corporation had violated 2 U.S.C. §441b by making loans to a political committee in connection with a Federal election;
- The committee had violated 2 U.S.C. §§ 441b and 441a(f) by accepting these prohibited contributions and by knowingly accepting excessive contributions; and
- Four individuals had violated 2 U.S.C. §441a (a)(1)(A) by making contributions in excess of the Act's limitations.

On March 16, 1982, the Commission accepted the recommendation of the General Counsel and initiated an investigation into the matter.

General Counsel's Report

An individual wished to combine his funds with those of several other individuals in order to make independent expenditures on behalf of two Federal candidates. He therefore established a political committee and registered it with the Federal Election Commission. In order to make the advanced payments on the ads (the independent expenditures), as required by the media firm, the organizer of the committee directed his solely-owned corporation to advance \$19,882. The organizer of the committee paid the media firm with two cashier checks purchased with two checks drawn on an account of his corporation. Subsequently, four individuals (including the organizer of the committee) contributed \$5,000 each to the committee; the committee used these contributions to repay the corporation's loan for the ads.

Excessive Contributions by Individuals. The General Counsel maintained that the \$5,000 payments by the individuals were contributions to a political committee -- not merely a series of independent expenditures made by several individuals. In support of this view, the General Counsel pointed out that individuals had paid the committee, not the media vendor; that they had exercised no control over the actual use of the funds since they made their contributions after the ads had been paid for; and that the contributed funds had been deposited in an account maintained in the name of a distinct political organization.

The General Counsel further believed that the individuals' contributions to the political committee were each subject to the per candidate limit (rather than the committee limit of \$5,000 a year)* because the contributors knew that a sub-

PUBLIC APPEARANCES

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Commissioner Joan D. Aikens

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stantial portion of their contributions would be expended on behalf of a clearly identified candidate. See 11 CFR 110.1(h). In addition, all but one of the contributors had already contributed to this candidate. The General Counsel therefore recommended the Commission find probable cause that three of the individuals and the committee had violated 2 U.S.C. §441a by making and receiving excess contributions. In the case of one individual, the General Counsel recommended that there was no probable cause to believe he had violated the Act because he had not known that a substantial portion of his contribution would be spent for one candidate. The Commission adopted these recommendations.

Corporate Contributions. The General Counsel argued that the corporation's advance of funds to pay for the political ads was a prohibited corporate contribution. He pointed out that, since the committee organizer was also the sole owner of the corporation which loaned the funds and since he intended to use the funds to pay the media bill, the loans were "in connection with a federal election."

Refuting the respondent's argument that the corporation had made the advance in the ordinary course of its business, the General Counsel said that the only provision in the statute for loans made for political use pertains to banks and other specified lending institutions. 2 U.S.C. §431(8)(B)(vii). The General Counsel recommended that the Commission find probable cause to believe that the corporation and the committee had violated 2 U.S.C. §441b by making and accepting prohibited corporate contributions.

Commission Determination

On December 22, 1982, respondents requested to enter into conciliation negotiations prior to the Commission's finding of probable cause to believe. On July 20, 1983, the Commission accepted the conciliation agreement, which included a civil penalty of \$2,500.

* See 2 U.S.C. Section 441a(a)(1)(C).

STATISTICS

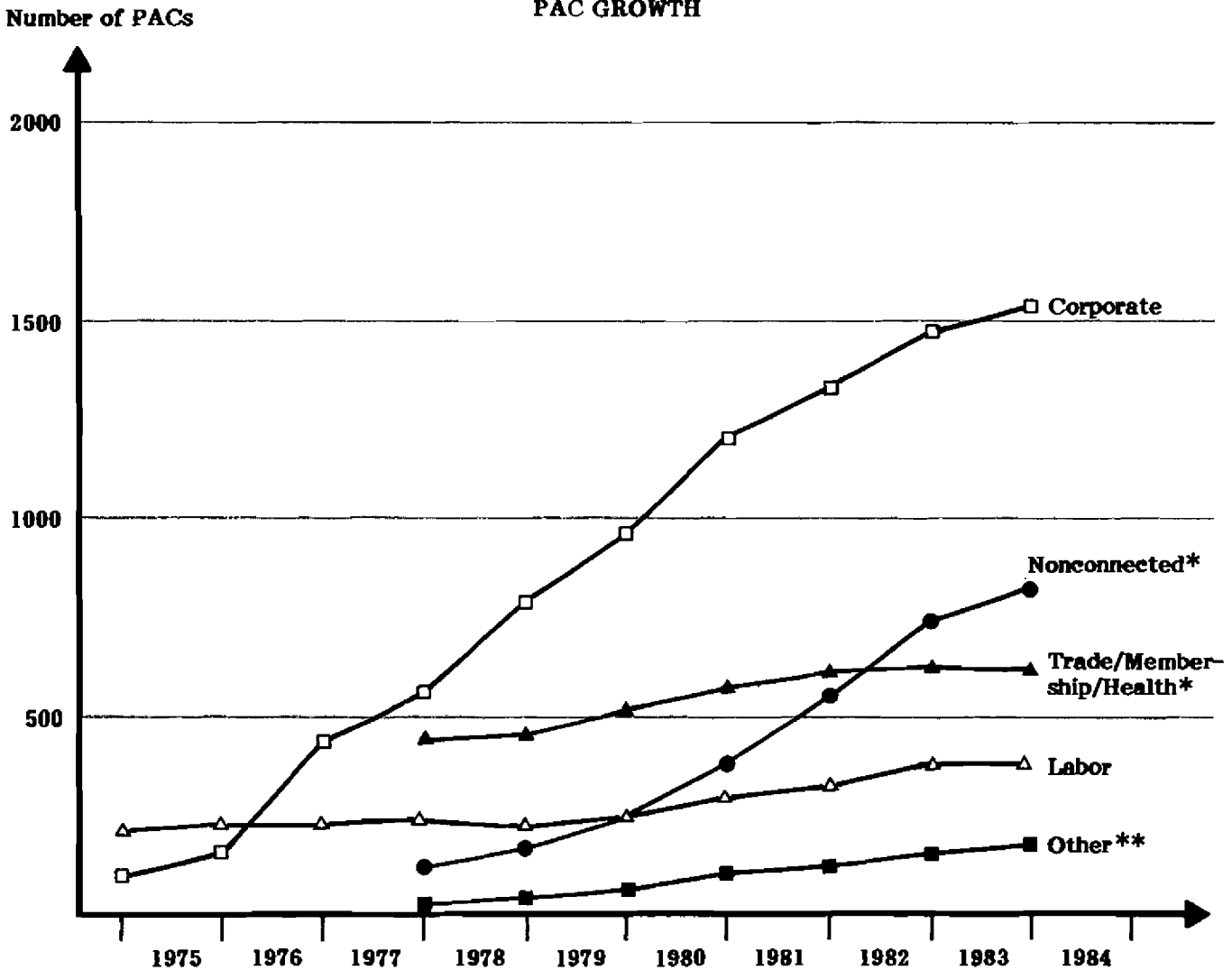
Figures released by the FEC in mid-January show that yearly increases in the number of PACs from January 1, 1975, through January 1, 1984, have averaged 22.3 percent. The largest increase in PAC growth occurred between January 1, 1975, and January 1, 1977. During this two-year period, PAC numbers grew by 88.5 percent (from 608 PACs in January 1975 to 1,146 PACs in January 1977).

The graph below plots the growth of PACs between 1975 and 1984. Figures show that 608 PACs existed at the beginning of 1975. By the end of 1976, that number had risen to 1,146 and by January 1984 had reached 3,525. The graph does not reflect the financial activity of PACs.

1983 PAC GROWTH

Although growing at a slower rate than in past years, the number of PACs registered with the FEC continued to increase during 1983. By January 1, 1984, there were 3,525 PACs, an increase of 4.5 percent over the 3,371 PACs registered on January 1, 1983. (The term PAC or political action committee refers to any political committee not authorized by a federal candidate or established by a political party.)

PAC GROWTH



*From January 1975 through December 1976, the FEC did not identify categories of PACs other than corporate and labor PACs. Therefore, numbers are not available for Trade/Membership/Health PACs or Nonconnected PACs.

**Includes PACs formed by corporations without capital stock and cooperatives. Numbers are not available for these categories of PACs from January 1975 through December 1976.

**PAC CONTRIBUTIONS UP
51.4 PERCENT FOR 1982 RACES**

PACs* contributed \$83.6 million to 1982 Congressional primary and general election campaigns, a 51.4 percent increase over the \$55.2 million contributed to 1980 Congressional races.

Information released by the FEC in November 1983 showed that 1982 Democratic Congressional candidates received a higher percentage of contributions from PACs than previously -- 54.3 percent (or \$45.4 million) of total PAC contributions compared with the 52.3 percent of total PAC contributions given to 1980 Democratic campaigns (\$28.9 million).

Correspondingly, the percentage of PAC contributions given to the 1982 Republican candidates decreased. They received 46 percent (\$38.2 million) of PAC contributions, whereas 47.5 percent of PAC contributions went to Republican Congressional candidates in the 1980 elections (\$26.2 million).

The proportion of PAC contributions going to incumbents also increased when compared with previous elections. Incumbents received 65.8 percent (or \$55 million) of total PAC contributions made to 1982 Congressional races, while they received 60.7 percent (or \$33.5 million) of total PAC contributions for 1980 Congressional races. In the 1982 Congressional races, challengers received 19.4 percent (or \$16.2 million) of total PAC contributions, while they received 26.3 percent (or \$14.5 million) of PAC contributions for 1980 Congressional races. Open-seat races accounted for 14.8 percent (or \$12.4 million) of total PAC contributions made to 1982 Congressional races, while they accounted for 13 percent (or \$7.2 million) of PAC contributions to 1980 races.

PACs raised \$199.5 million during 1981-82, a marked increase over the \$137.7 million raised during the 1979-80 election cycle, which included a Presidential election. Total PAC spending also increased, from \$131.1 million to \$190.2 million. The 1981-82 total for PAC spending included \$4 million given to federal candidates to retire debts from previous campaigns or to defray expenses of future races and \$6 million given to political parties.

PACs opened the 1981-82 election cycle with \$22.2 million cash on hand and ended the cycle with a cash balance of \$31.5 million and outstand-

ing debts of just over \$5.2 million. PACs closed the 1979-80 cycle with \$22 million cash on hand and \$2.3 million in debts.

Chart I below lists the PACs which made the most contributions to federal candidates during the 1981-82 election cycle. Chart II summarizes the financial activity of PACs during the period.

More detailed information on PAC activity may be obtained from the four-volume study, FEC Reports on Financial Activity: 1981-82, Final Report: Party and Non-Party Political Committees. The study may be purchased (\$5.00 per volume) from the FEC's Public Records Office, 1325 K Street, N.W., Washington, D.C. 20463. Checks should be made payable to the FEC.

**CHART I
TOP 10 PAC CONTRIBUTORS TO
ALL FEDERAL CANDIDATES***

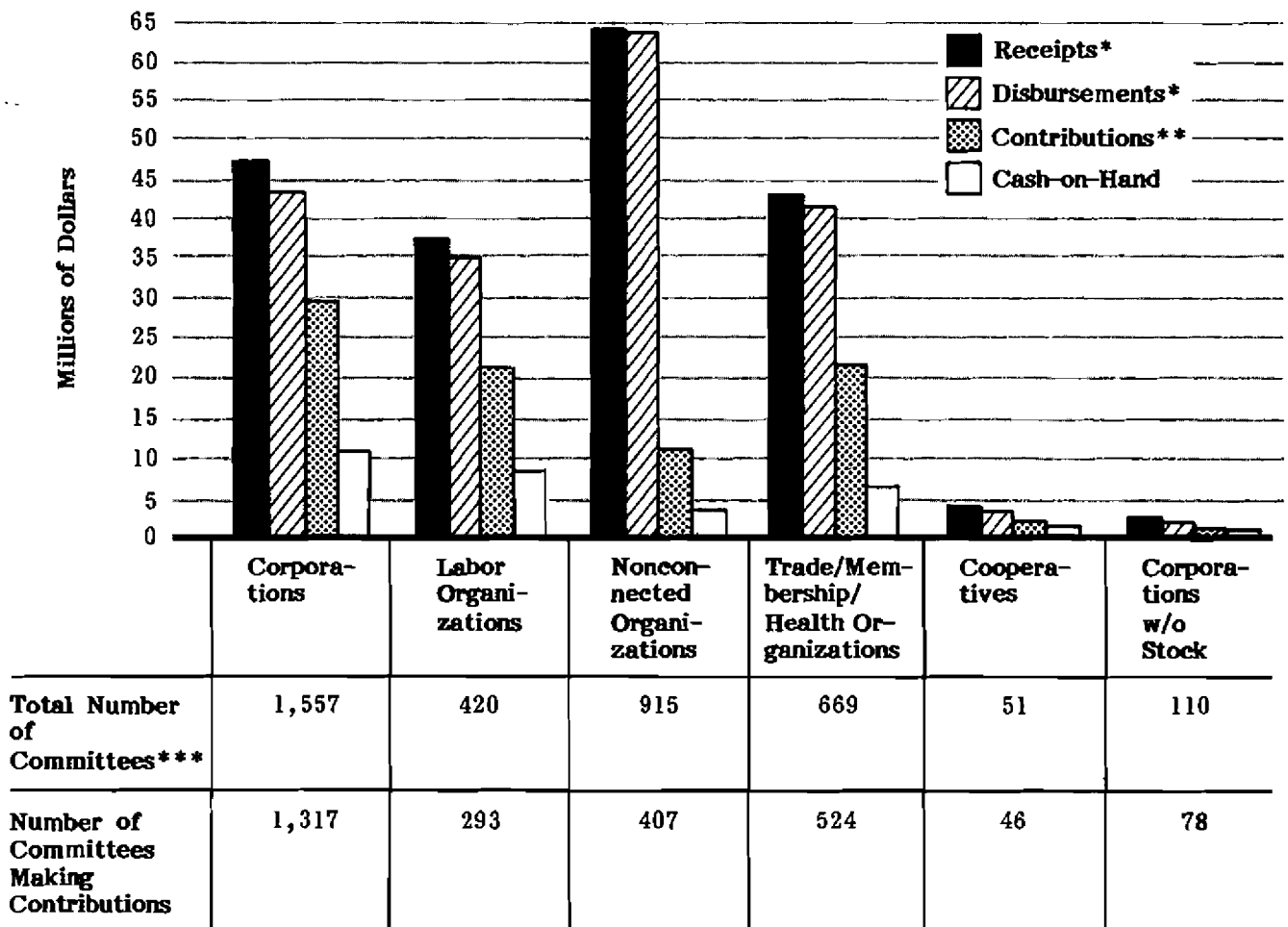
Political Action Committee**	Amount Contributed 1/81 - 12/82
Realtors Political Action Committee (National Association of Realtors)	\$2,115,135
American Medical Association PAC (AMA)	1,737,090
UAW Voluntary Community Action Program (United Auto Workers)	1,628,347
Machinists Non-Partisan Political League (International Association of Machinists and Aerospace Workers)	1,445,459
National Education Association PAC (NEA)	1,183,215
Build Political Action Committee (National Association of Home Builders)	1,006,628
Committee for Thorough Agricultural Political Education (Associated Milk Producers, Inc.)	962,450
BANKPAC (American Bankers Association)	947,460
Automobile and Truck Dealers Election Action Committee (Automobile Dealers Association)	917,295
AFL-CIO COPE Political Contribu- tions Committee (AFL-CIO)	906,425

*Contribution figures do not include totals for independent expenditures made for or against candidates.

**The connected organization (i.e., sponsor) of a separate segregated fund is indicated in parentheses.

*PAC is a popular term used to define a political committee that has not been authorized by a candidate or political party.

CHART II
FINANCIAL ACTIVITY OF PACS, 1/1/81 - 12/31/82



*Receipts and disbursements do not include funds transferred between affiliated committees.

**Includes contributions to committees of 1982 House and Senate candidates as well as all federal candidates (for House, Senate and Presidency) campaigning in future elections or retiring debts of former campaigns.

***Includes total number of PACs active in federal elections some time between January 1, 1981, and December 31, 1982. Since some committees terminated during the 1981-82 cycle, this figure does not represent total committees active as of December 31, 1982.

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