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CHAPTER II

REQUIREMENTS FOR REPORTING, DISCLOSING AND HANDLING FUNDS

This Chapter deals with the requirements imposed on individuals, candidates and political committees with respect to the reporting, disclosing and handling of funds. A major change from prior law is that a candidate must designate a principal campaign committee which must compile all of the reports and statements of political committees supporting the candidate and file these reports and statements with the Federal Election Commission. The Federal Election Commission has taken the place of the supervisory officers as the depository of the various reports and statements which are required to be filed by individuals, candidates and political committees. (See Chapter III infra). Specific requirements have been established for handling and accounting for campaign funds. Most funds must be handled through a designated "campaign depository."

A. Definitions (2 U.S.C. §431)

The following definitions are applicable solely to this Chapter. Although many of the definitions are similar to the definitions of the same terms contained in Chapter I supra, there are significant differences which are discussed in the Comments.

1. Election means

- a. a general, special, primary or runoff election;
- b. a convention or caucus of a political party held to nominate a candidate;
- c. a primary election held for the selection of delegates to a national nominating convention of a political party;



Chapter II: Definitions

[II.A.1: Election]

- d. a primary election held for the expression of a preference for the nomination of persons for election to the office of President.

Comment: Same as definition in section I.A.1.

- 2. Candidate means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected; and an individual shall be deemed to seek nomination for election, or election, if he has
 - a. taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office; or
 - b. received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

Comment: Same as definition in section I.A.2.

- 3. Federal office means the office of President and Vice President of the United States, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

Comment: Same as definition in section I.A.3.

- 4. Political committee means any committee, club, association or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000.

Comment: Same as the definition in section I.A.4 supra. See section II.M.2 infra concerning the possible future exemption of certain political committees from reporting requirements.



[II.A.5.a: Contribution]

5. Contribution means

- a. a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of:
 - (1) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party;
 - (2) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President;

Comment: The definition in Chapter I includes an exception to the definition of contribution for a loan made by a national or State bank. This exception for national and State banks is not included in the reporting and disclosure Chapter's definition of contribution because there is no need for it. The national or State bank is a conduit and does not have to report. The reason for the bank exception to the Chapter I definition is that if there were no exception, a national or State bank would be prohibited by the Act from making a loan to a candidate. (See section I.A. 11.a supra for a general discussion of the contribution definition.)

- b. a contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution for such purposes;



[II.A.5: Contribution]

- c. funds received by a political committee which are transferred to such committee from another political committee or other source;
- d. payment, by any person other than a candidate or a political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose.

Comment: See section I.A.11.d supra.

- e. EXCEPTIONS to the definition of contribution:

volunteers

- (1) value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

campaign
entertainment
at individual's
residence

- (2) use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities,

TO THE EXTENT THAT the cumulative value of such items and services furnished by any person on behalf of any candidate with respect to any election does not exceed \$500;

Comment: See section I.A.11.e.(2) supra.

food and beverages

- (3) sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the



Chapter II: Definitions

[II.A.5.e.(3): Contribution exceptions (discount food and beverages)]

normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor,

TO THE EXTENT THAT the cumulative value of such activities by any person on behalf of any candidate with respect to any election does not exceed \$500;

Comment: See section I.A.11.e.(3) supra.

unreimbursed
travel
expenses

- (4) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate,

TO THE EXTENT THAT the cumulative value of such unreimbursed travel expenses incurred by any individual on behalf of any candidate with respect to any election does not exceed \$500;

slate cards

- (5) payment by a state or local committee of a political party of the costs of preparation, display, mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized,

EXCEPT that this exemption does not apply in the case of costs incurred by such committee with respect to display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising;



Chapter II: Definitions

[II.A.5.e.(6): Contribution exceptions (legal payments by corporations and labor organizations)]

Comment: See section I.A.11.e.(5) supra.

payment by a corporation or labor organization not prohibited by Federal criminal law

(6) any payment made or obligation incurred by a corporation or labor organization which would not constitute an expenditure under the Federal Criminal Code (see section I.B.8 supra). The following are not considered expenditures by a corporation or labor organization under Federal law (18 U.S.C. §610):

- (a) communications by a corporation to its stockholders and their families and by a labor organization to its members and their families;
- (b) non-partisan get-out-the-vote activity by a corporation or a labor organization aimed at stockholders or members and their families; and
- (c) establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or a labor organization.

Comment: The corporation and labor organization payment exception is not an exception to the definition of contribution in Chapter I. See the General Comment to section I.A.12.d supra.

6. Expenditure means

- a. a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of:



Chapter II: Definitions

[II.A.6: Expenditure]

- (1) influencing the nomination for election, or election, of any person to Federal office, or to the office of Presidential or Vice Presidential elector; or
- (2) influencing the results of a primary election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President;

Comment: The definition of expenditure in section I.A.12.a supra includes an exception for a loan made by a national or State bank in accordance with the applicable banking laws and regulations and in the ordinary course of business. This exception is excluded from the definition of expenditure in this Chapter. See section II.A.5.a supra.

- b. a contract, promise or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and
- c. the transfer of funds by a political committee to another political committee.
- d. EXCEPTIONS to the definition of expenditure:

news story

- (1) any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication,

UNLESS such facilities are owned or controlled by any political party, political committee or candidate;



Chapter II: Definitions

[II.A.6.d.(2): Expenditure exceptions (non-partisan get-out-the-vote activity)]

Comment: See section I.A.12.d.(1) supra.

non-partisan
get-out-the-
vote activity

- (2) non-partisan activity designed to encourage individuals to register to vote or to vote;

Comment: See section I.A.12.d.(2) supra.

communica-
tions by
corporations
to stock-
holders or
by unions
to members

- (3) any communication by any membership organization or corporation to its members or stockholders,

IF such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office;

Comment: See section I.A.12.d.(3) supra.

campaign
entertainment
at individual's
residence

- (4) use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities

TO THE EXTENT THAT the cumulative value of such items and services furnished by any individual on behalf of any candidate with respect to any election does not exceed \$500;

Comment: See section I.A.12.d.(4) supra.

unreimbursed
travel
expenses

- (5) any unreimbursed travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate



Chapter II: Definitions

[II.A.6.d.(5): Expenditure exceptions (travel expenses)]

TO THE EXENT THAT the cumulative value of such items and services furnished by any individual on behalf of any candidate with respect to any election does not exceed \$500;

Comment: See section I.A.12.d.(5) supra.

any communication not made for the purpose of influencing an election

- (6) any communication by any person which is not made for the purpose of influencing the nomination for election, or election, of any person to Federal office;

Comment: See section I.A.12.d.(6) supra.

slate cards

- (7) payment by a State or local committee of a political party of the costs of preparation, display, mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized,

EXCEPT that this exemption does not apply in the case of costs incurred by such committees with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising;

Comment: See section I.A.12.d.(7) supra.



Chapter II: Definitions

[II.A.6.d.(8): Expenditure exceptions (legal payments by corporations and labor organizations)]

payments by corporations or unions which are not considered expenditures under Federal law

(8) any payment made or obligation incurred by a corporation or labor organization which is not considered an expenditure under Federal law (see section I.B.8 supra). The following are not considered expenditures under Federal law (18 U.S.C. §610):

- (a) communications by a corporation to its stockholders and their families and by a labor organization to its members and their families;
- (b) non-partisan get-out-the-vote activity by a corporation or a labor organization aimed at stockholders or members and their families; and
- (c) establishment, administration and solicitation of contributions to a separate, segregated fund to be utilized for political purposes by a corporation or a labor organization.

Comment: The corporate and union payments exception is included in the reporting and disclosure exceptions to the definition of expenditure but not in the exceptions to the definition of expenditure contained in section I.A.12.d supra. Thus such legal corporate and union payments need not be reported as expenditures.

General comment on exceptions to the definition of expenditure: The fund-raising exceptions to the definition of expenditure in sections I.A.12.d.(8) and (9) supra are not included in the reporting and disclosure exceptions for the reason that fund-raising costs must be reported, but they do not count against the expenditure limitation of the candidate (up to the 20% limit) or the political committee (see sections I.A.12.d.(8) and (9) supra).



Chapter II: Definitions

[II.A.7: Person]

7. Person means an individual, partnership, committee, association, corporation, labor organization and any other organization or group of persons.

Comment: Labor organization is specifically mentioned in this exception while it is not specifically mentioned in section I.A.9 supra. It is, nevertheless, included in the definition of person in section I.A.9 supra.

8. State means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States.

Comment: Same as definition in section I.A.10 supra.

9. Identification means

- a. in the case of an individual, his full name and the full address of his principal place of residence; and
- b. in the case of any other person, the full name and address of such person.

Comment: This definition is significant in connection with the reports that must be filed on contributions and expenditures. See, for example, sections II.G.2.(i) and (j), II.D.5.a and II.E infra. There is no corresponding definition in Chapter I.

10. National committee means the organization which, by virtue of the by-laws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

Comment: Same as the definition in section I.A.8 supra. See the Comment to that section for a discussion of the role of the Commission in determining which committee is responsible for the day-to-day operations of a national political party.



Chapter II: Definitions

[II.A.11: State committee]

11. State committee means the organization which, by virtue of the by-laws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

Comment: Same as the definition in section I.A.7 supra. See the Comment to that section for a discussion of the role of the Commission in determining which committee is responsible for the day-to-day operations of a State political party.

12. Principal campaign committee means the political committee designated by a candidate to be his principal campaign committee.

Comment: Each candidate (other than a candidate for the office of Vice President of the United States) must designate one political committee as his principal campaign committee. A political committee may not serve as the principal campaign committee of more than one candidate nor may a political committee which supports more than one candidate be designated as a principal campaign committee, with the exception that a candidate for the office of President of the United States may designate the national committee of the political party which nominated him as his principal campaign committee. See section I.A.5 supra.

13. Political party means an association, committee or organization which nominates a candidate for election to any Federal office, whose name appears on the election ballot as the candidate for such association, committee or organization.

Comment: Same as the definition in section I.A.6 supra.

B. Organization and registration of political committees

1. Organization of political committees (2 U.S.C. §432)

Every political committee must have a chairman and a treasurer.



Chapter II: Organization and
Registration of Political Committees

[II.B.1: Organization]

Comment: The treasurer of a political committee is responsible for keeping a detailed account of all contributions made to the political committee and all expenditures made by the political committee. Furthermore, the treasurer is responsible for filing required reports with the principal campaign committee of the candidate whom the political committee is supporting. Therefore, the position of treasurer is an extremely important position, and political committees would be well-advised to make certain that a person familiar with accounting principles assumes the position of treasurer. Also, the treasurer should be made aware of his potential liability if incorrect reports are filed.

2. Registration of political committees (2
U.S.C. §433)

- a. Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding \$1,000 shall file with the Federal Election Commission a statement of organization within ten days after the date it receives information which causes the committee to anticipate that it will receive contributions or make expenditures in excess of \$1,000.
- b. Each such committee in existence at the date of enactment of the Act shall file a statement of organization with the Commission at such time as it prescribes.
- c. The statement of organization shall include:
 - (1) the name and address of the committee;
 - (2) the names, addresses and relationships of affiliated or connected organizations;
 - (3) the area, scope and jurisdiction of the committee;



Chapter II: Organization and
Registration of Political Committees

[II.B.2: Registration]

- (4) the name, address and position of the custodian of books and accounts;
 - (5) the name, address and position of other principal officers, including officers and members of the finance committee, if any;
 - (6) the name, address, office sought and party affiliation of:
 - (a) each candidate whom the committee is supporting, and
 - (b) any other individual, if any, whom the committee is supporting for nomination for election or election to any public office, whatever, or if the committee is supporting the entire ticket of any party, the name of the party;
 - (7) a statement whether the committee is a continuing one;
 - (8) the disposition of residual funds which will be made in the event of dissolution;
 - (9) a listing of all banks, safety deposit boxes or other repositories used;
 - (10) a statement of the reports required to be filed by the committee with State or local officers, and if so, the names, addresses and positions of such persons; and
 - (11) any other information required by the Federal Election Commission.
- d. Any change in information previously submitted in a statement of organization



Chapter II: Organization and
Registration of Political Committees

[II.B.2: Registration]

shall be reported to the Federal Election Commission within the ten-day period following the change.

- e. Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$1,000 shall so notify the Federal Election Commission.

Comment: A political committee must file statements of organization, and any changes thereto, with the Federal Election Commission, despite the fact that a political committee, other than a principal campaign committee, is required to file its reports with the principal campaign committee of the candidate to whom it is making contributions or on behalf of whom it is making expenditures.

C. Designation of a principal campaign committee by each candidate (§302(f) of the Act)

1. Each individual who is a candidate for Federal office (except for Vice President) shall designate a political committee to serve as his principal campaign committee.
2. No political committee may be designated as the principal campaign committee of more than one candidate, except that the candidate for President may designate the national committee of his political party as his principal campaign committee.
3. Except in the case of the national committee of a political party serving as the principal campaign committee of its Presidential candidate, no political committee which supports more than one candidate may be designated as a principal campaign committee.

Comment: A candidate must designate a principal campaign committee. Even if he does not anticipate any contributions from political committees, an individual cannot be a candidate for Federal office without designating a principal campaign committee.



[II.D.1: Vacancy in office of chairman or treasurer]

D. Handling of funds

1. Contributions and expenditures prohibited when office of chairman or treasurer is vacant (2 U.S.C. §432)

NO CONTRIBUTION AND NO EXPENDITURE SHALL BE ACCEPTED OR MADE BY OR ON BEHALF OF A POLITICAL COMMITTEE AT A TIME WHEN THERE IS A VACANCY IN THE OFFICE OF CHAIRMAN OR TREASURER.

Comment: A vacancy in the office of chairman or treasurer will prevent a political committee from receiving contributions or making expenditures. It would, therefore, seem advisable for such committees to institute a system of automatic ascendancy to the offices of chairman and treasurer in order to ensure that the committee will not be immobilized due to a vacancy in one of these offices.

2. Authorization (2 U.S.C. §432)

No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer or designated agents.

Comment: Political committees should institute some type of voucher system in order to ensure that no expenditures are made without the authorization required by this provision.

3. Campaign depositories (§309 of the Act)

- a. Designation

- (1) By candidates generally

Each candidate must designate one or more national or State banks as his campaign depositories.

- (2) By Presidential candidates

- (a) A candidate for nomination for election, or for election, to the Presidency, may establish



[II.D.3.a: Campaign depositories (designation)]

one depository in each State, which shall be considered as his campaign depository for such State by his principal campaign committee and any other committee authorized by him to receive contributions or to make expenditures on his behalf in such State, under rules prescribed by the Commission.

- (b) The Vice Presidential candidate's campaign depository shall be the depository designated by the Presidential candidate of his political party.

Comment: An individual who is a candidate for his party's nomination for election to the office of Vice President presumably must designate a campaign depository of his own for the period prior to the nomination of the party's Presidential candidate.

- (3) By the treasurer of any other political committee

The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or make expenditures on his behalf) must designate one or more national or State banks as campaign depositories of the committee.

b. Checking account and petty cash fund

- (1) The candidate's principal campaign committee, any other political committee authorized by him to receive contributions or make expenditures on his behalf, and any other committee shall maintain a



Chapter II: Handling Funds

[II.D.3.b: Campaign depositories (checking account and petty cash fund)]

checking account at their respective depositories.

- (2) All expenditures made by any such committee on behalf of a candidate or to influence his election must be made by a check drawn on such checking account,

EXCEPT expenditures not in excess of \$100 to any person in connection with a single purchase or transaction may be made out of a petty cash fund.

A record of petty cash disbursements must be kept and reports made to the Commission as the Commission may require.

Comment: The total amount in the petty cash fund seems to be unlimited so long as no single transaction exceeds \$100. However, clarification should be sought from the Federal Election Commission.

c. Deposits

- (1) The candidate's principal campaign committee, any authorized committee and any other committee must deposit contributions they receive into their respective checking accounts in their respective campaign depositories.
- (2) A candidate must deposit into the account maintained by his principal campaign committee any payments which he receives from the Presidential Election Campaign Fund under the provisions of Chapters 95 and 96 of the Internal Revenue Code of 1954. (See Chapter V infra.)



[II.D.3.c: Campaign depositories (deposits)]

Comment: Clarification should be sought from the Federal Election Commission on the question of when, if ever, contributions or payments may be deposited in an interest-bearing savings account or otherwise invested. May contributions be withdrawn from the checking account and invested, immediately after they have been deposited in the checking account? What is to be done with contributions of property other than money?

4. Segregation from personal funds (2 U.S.C. §432)

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members or associates of such committee.

5. Duties of the treasurer of a political committee (2 U.S.C. §432)

a. The treasurer shall keep a detailed and exact account of:

- (1) all contributions made to or for the political committee;
- (2) the identification of every person making a contribution in excess of \$10 and the date and amount thereof, and if a person's contributions aggregate more than \$100, the account kept by the treasurer shall include the person's occupation and principal place of business (if any);
- (3) all expenditures made by or on behalf of the political committee; and
- (4) the identification of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.



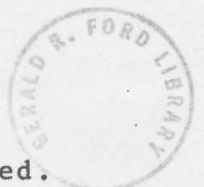
[II.D.5: Duties of treasurer]

Comment: See section II.A.9 supra for the meaning of identification.

- b. The treasurer shall obtain and keep a receipted bill stating the particulars of every expenditure made by or on behalf of a political committee in excess of \$100 in amount and for any expenditure in a lesser amount if the aggregate amount of such expenditures to the same person during the calendar year exceeds \$100.
- c. The treasurer shall preserve all receipted bills and accounts which he is required to keep for a period of time to be determined by the Federal Election Commission.

Comment: The treasurer must keep an account of each expenditure made by the political committee because if small expenditures are made to a person which in the aggregate total more than \$100 in a calendar year, the treasurer is required to have a receipted bill for these expenditures. For example, if pencils are purchased in small amounts from a supplier and if the aggregate of the purchases from that supplier in a calendar year exceeds \$100, the treasurer is required to have a receipted bill for the expenditures. Therefore, the treasurer should keep a running account for each supplier and obtain a receipted bill for all expenditures no matter how small.

- 6. Use of excess campaign contributions and non-campaign contributions (\$318 of the Act)
 - a. Contributions to which this provision applies
 - (1) Any amount of contributions received by a candidate in excess of the amount needed to defray his expenditures.



Chapter II: Handling Funds

[II.D.6: Use of excess contributions]

- (2) Any amount contributed to an individual for the purpose of supporting his activities as a holder of Federal office.

b. Use

The above types of contributions may be used by the candidate or individual for the following purposes:

- (1) to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office;
- (2) as a contribution to any charitable organization described in section 170(c) of the Internal Revenue Code of 1954; or
- (3) for any other lawful purpose.

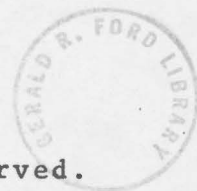
c. Disclosure

The contribution, as well as the purpose for which it is eventually used, must be disclosed by the candidate or individual in accordance with rules promulgated by the Federal Election Commission.

E. Reporting to political committee treasurer contributions in excess of \$10 (\$302 of the Act)

Every person who receives a contribution in excess of \$10 for a political committee shall, on demand of the treasurer or within five days after receipt of the contribution, render to the treasurer a detailed account including:

1. the amount of the contribution;
2. the identification of the person making the contribution; and



[II.E: Reporting to treasurer contributions in excess of \$10]

3. the date on which the contribution was received.

F. Reports to and by principal campaign committees
(§302(f) of the Act)

1. Each report or statement of contributions received or expenditures made by a political committee (other than a principal campaign committee) which is required to be filed with the Federal Election Commission shall be filed instead with the principal campaign committee for the candidate on whose behalf such contributions are accepted or such expenditures are made.
2. Each principal campaign committee shall receive all reports and statements required to be filed with it.
3. The principal campaign committee shall compile all of the reports received from the various political committees and shall file this compilation, along with its own statements and reports, with the Federal Election Commission.

Comment: The report of the principal campaign committee of a candidate for the office of Representative, Delegate or Resident Commissioner must be filed with the Clerk of the House of Representatives who will act as custodian for the Federal Election Commission. The report of a principal campaign committee of a candidate for the office of Senator must be filed with the Secretary of the Senate who will also act as custodian for the Commission.

G. Reports by political committees and candidates (2 U.S.C. §434)

1. Who must file reports
 - a. Each treasurer of a principal campaign committee designated by a candidate for Federal office and each candidate for



Chapter II: Reporting and Disclosure

[II.G.1: Political committees and candidates (who must report)]

election to such office, shall file with the Federal Election Commission reports of receipts and expenditures on forms to be prescribed and approved by the Commission.

- b. Each treasurer of a political committee which is not a principal campaign committee shall file reports with the appropriate principal campaign committee.

2. What each report must contain

Each report must contain:

- a. the amount of cash on hand at the beginning of the reporting period;
- b. The full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events) within the calendar year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions;
- c. the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under section b above;
- d. the names and addresses of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;
- e. each loan to or from any person within the calendar year in an aggregate amount



Chapter II: Reporting and Disclosure

[II.G.2: Political committees and candidates (content of reports)]

or value in excess of \$100, together with the full names and mailing address (occupation and the principal places of business, if any) of the lender, endorser or guarantors, if any, and the date and amount of such loans;

- f. the total amount of proceeds from
 - (1) the sale of tickets to each dinner, luncheon, rally and other fund-raising events;
 - (2) mass collections made at such events; and
 - (3) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature and similar materials;
- g. each contribution, rebate, refund or other receipt in excess of \$100 not otherwise listed in sections b through f;
- h. the total sum of all receipts by or for such committee or candidate during the reporting period together with the total receipts less transfers between political committees which support the same candidate and do not support more than one candidate;
- i. the identification of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of \$100, the amount, date and purpose of each such expenditure and the name and address and the office sought by each candidate on whose behalf such expenditure was made;



Chapter II: Reporting and Disclosure

[II.G.2: Political committees and candidates (content of reports)]

- j. the identification of each person to whom an expenditure for personal services, salaries and reimbursed expenses in excess of \$100 has been made, and which is not otherwise reported, including the amount, date and purpose of such expenditure;
- k. the total sum of expenditures made by such committee or candidate during the calendar year together with the total expenditures less transfers between political committees which support the same candidate and which do not support more than one candidate;
- l. the amount and nature of debts and obligations owed by or to the committee, in such form as the Commission may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the Commission may require until such debts and obligations are extinguished, together with a statement as to the circumstances and conditions under which any debt or obligation is extinguished and the consideration therefor; and
- m. such other information as may be required by the Federal Election Commission.

Comment: Guarantors of loans must be disclosed. The outstanding balance of the loan is considered to be a contribution by the guarantor and must be counted by the guarantor as part of his contribution limitation. When the loan is paid off by the candidate, it is no longer considered a contribution by the guarantor and does not have to be included in the guarantor's contribution limitation (see section I.A.11.a supra).

The reports must include a statement concerning the circumstances and conditions under which any debt or obligation is extinguished. This statement will eliminate



Chapter II: Reporting and Disclosure

[II.G.2: Political committees and candidates (content of reports)]

the practice of reporting the expenditure of the proceeds of a loan as an "expenditure" two times--once when the funds are spent and again when the loan is paid off.

In addition to reporting total receipts and total expenditures, each report must show total receipts less transfers between political committees which support the same candidate and do not support any other candidate as well as total expenditures less such transfers. The reason for this additional reporting requirement is that reports under prior law distorted the picture of a candidate's finances because each transfer of funds from one single-candidate committee to another single-candidate committee supporting the same candidate was treated as an expenditure. Thus expenditures were exaggerated.

- n. These reports shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.
- o. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

3. When reports must be filed

a. Election year

In any calendar year in which an election for Federal office is held

- (1) reports shall be filed not later than the tenth day before the date on which the election is held and shall be complete as of the fifteenth day before the date of the election,



Chapter II: Reporting and Disclosure

[II.G.3: Political committees and candidates (frequency of reports)]

EXCEPT any report filed by registered or certified mail must be postmarked not later than the close of the twelfth day before the date of the election; and

- (2) reports shall be filed not later than the thirtieth day after the date of the election and shall be complete as of the twentieth day after the election.

b. Non-election year

In any year in which an individual is a candidate for Federal office other than an election year reports shall be filed after December 31 of the calendar year but not later than January 31 of the following calendar year and shall be complete as of the close of the calendar year with respect to which the report is filed.

c. Quarterly reports

- (1) Reports shall be filed not later than the tenth day following the close of any calendar quarter in which the candidate or political committee concerned received contributions in excess of \$1,000 or made expenditures in excess of \$1,000 and shall be complete as of the close of the quarter.
- (2) Any quarterly report required to be filed after December 31 in a non-election year shall be superseded by the December 31 year-end report and the year-end report shall be filed instead of the quarterly report.



Chapter II: Reporting and Disclosure

[II.G.3: Political committees and candidates (frequency of reports)]

- (3) When the last day for filing a quarterly report occurs within ten days of an election, the filing of the quarterly report is waived and superseded by the required pre-election report.

d. Late contributions

Any contribution of \$1,000 or more received after the fifteenth day, but more than 48 hours, before the election shall be reported within 48 hours of its receipt.

e. Waiver of reporting dates

- (1) Upon a request made by a Presidential candidate or a political committee which operates in more than one State or upon the Commission's own motion, the Commission may waive the reporting dates (except the non-election year end-of-year report) and require instead that the candidate or political committee file reports not less frequently than monthly.
- (2) The Commission may not require a Presidential candidate or a political committee operating in more than one State to file more than 12 reports (not counting the non-election year end-of-year report) during any calendar year.
- (3) If the Commission acts on its own motion with respect to a candidate or political committee, the candidate or committee may seek judicial review of the action of the Commission.

Comment: Reports must be filed by the candidate, the treasurer of the principal campaign committee and the treasurer



Chapter II: Reporting and Disclosure

[II.G.3: Political committees and candidates (frequency of reports)]

of a political committee which is not a principal campaign committee. The political committees must file their reports with the principal campaign committee of the candidate to whom they made a contribution or on behalf of whom they made an expenditure. In an election year reports must be filed ten days before the election and be complete as of the fifteenth day before an election. A report must be filed by a candidate, a principal campaign committee and a political committee within thirty days after the election. Quarterly reports must be filed if a candidate or a political committee receives contributions in excess of \$1,000 or makes expenditures in excess of \$1,000 in a calendar quarter. A person, other than a political committee or a candidate, who makes independent expenditures (see section I.C.3 *supra*) in an aggregate amount in excess of \$100 in any calendar year must file with the Commission statements containing the same information that it would be required to file if it were a political committee or a candidate (see section II.I. *infra*). These quarterly reports must be filed within ten days of the end of the quarter; however, when the last day of the quarter occurs within ten days of an election, the quarterly report is waived. A contribution of \$1,000 or more which is received within fifteen days of the election must be reported within 48 hours of its receipt.

f. Report required to be filed by January 31, 1975

Notwithstanding the 1974 Amendments to the 1971 Act, the report which political committees and candidates were required to file by January 31, 1975 under the provisions of the 1971 Act must still be filed.

H. Exemption from reporting certain services furnished to Members of Congress (\$304 of the Act)

A member of Congress is not required to report, as contributions received or expenditures made, the value of photographic, matting or recording services IF such services are furnished to him by the Senate Recording Studio, the House Recording Studio, or by an individual whose pay is



Chapter II: Reporting and Disclosure

[II.H: Exemption of certain services furnished to Members of Congress]

disbursed by the Secretary of the Senate or the Clerk of the House of Representatives and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives, or IF such services are paid for by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee or the National Republican Congressional Committee. The exemption does not apply to recording services furnished during the calendar year before the year in which the member's term expires.

Comment: In a non-election year a member of Congress is not required to report as contributions received or expenditures made the value of photographic, matting and recording services provided by the above-named individuals or committees. However, the statute requires that "such recording services" furnished in an election year be reported. Thus it appears to be the case that in an election year the value of photographic and matting services need not be reported, but that the value of recording services provided by the above-named individuals or committees must be reported as contributions received or expenditures made. It is possible that the Federal Election Commission might construe the phrase "such recording services" as referring to photographic and matting services as well, and thereby require that the value of the photographic and matting services furnished in an election year be reported. Although such a construction would seem to depart from the literal language of the statute, clarification should be sought.

I. Reports by persons other than political committees or candidates

Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of \$100 within a calendar year shall file with the Commission a statement containing the information required of political committees and candidates. Statements required by this subsection shall be filed on the dates on which reports by political committees are filed but need not be cumulative.



Chapter II: Reporting and Disclosure

[II.I: Persons other than political committees or candidates]

Comment: This section deals with individuals who make independent expenditures on behalf of a candidate or a political committee in excess of \$100. These individuals must file a report with the Commission just as if they were a political committee or a candidate (see section II.G supra). The reason for the existence of this section is that if independent expenditures or contributions were made by individuals without the knowledge of a candidate or a political committee, the political committee or candidate would not report the contribution or expenditure and, therefore, without this section, the contribution or expenditure would go unreported. Of course, an individual is limited to \$1,000 of independent activity on behalf of any candidate in any calendar year.

J. Reports by persons other than political committees, candidates or individuals (\$308 of the Act)

1. Any person (other than an individual) who expends any funds or commits any act directed to the public for the purpose of influencing the outcome of an election, or who publishes or broadcasts to the public any material referring to a candidate (by name, description or other reference) advocating the election or defeat of such candidate, setting forth the candidate's position on any public issue, his voting record or other official acts (in the case of a candidate who holds or has held Federal office), or otherwise designed to influence individuals to cast their votes for or against such candidate or to withhold their votes from such candidate shall file reports with the Commission as if such person were a political committee.
2. The reports shall set forth the source of funds used in carrying out any of the above activities as if the funds were contributions or expenditures by political committees or candidates.
3. This reporting requirement does not apply to any publication or broadcast of the United



Chapter II: Reporting and Disclosure

[II.J: Persons other than political committees, candidates or individuals]

States Government or to any news story, commentary or editorial distributed through the facilities of a broadcasting station or a bona fide newspaper, magazine or other periodical publication.

4. A news story, commentary or editorial is not considered to be distributed through a bona fide newspaper, magazine or other periodical publication if
 - a. the publication is primarily for distribution to individuals affiliated by membership or stock ownership with the person (other than an individual) distributing it or causing it to be distributed, and not primarily for purchase by the public at newsstands or by paid subscription; or
 - b. the news story, commentary or editorial is distributed by a person (other than an individual) who devotes a substantial part of his activities to attempting to influence the outcome of elections, or to influence public opinion with respect to matters of national or state policy or concern.

Comment: This section applies to persons (other than an individual) who commit any act directed to the public for the purpose of influencing an election. They must file a report with the Commission as if they were a political committee and disclose the source of their funds as if such funds were contributions or expenditures by political committees or candidates.

The legislative history contains divergent views as to the groups which are covered by this section. Various House members expressed the opinion that groups such as Common Cause, the American Civil Liberties Union and the American Conservative Union fall within the confines of this section. Representative Frenzel stated on October 10, 1974, during the floor debate on the 1974 Amendments to the Act (see p. 10333 of the Congressional Record) as follows:



Chapter II: Reporting and Disclosure

[II.J: Persons other than political committees, candidates or individuals]

"This section [§308 of the Act] is clearly intended to include rating sheets, press releases, press conferences, communications to the press, seminars, and other similar activities, which are directed at the public or which attempt to influence public opinion with respect to officeholders or candidates. It specifically includes publications 'primarily for distribution to individuals affiliated by membership or stock ownership with the person distributing it.'

"The purpose of this provision is not to discourage such activity but to insure that the public is aware of the persons who contribute to and are responsible for these activities.

....

"This provision is intended to apply indiscriminately and will bring under the disclosure provisions many groups, including liberal, labor, environmental, business and conservative organizations. Section 308 does not make any exceptions."

However, Senator Cannon, in the Senate floor debate on October 8, 1974 (see p. 18526 of the Congressional Record) expressed the following opinion:

"...the thrust of this provision [Section 308] is to require organizations that communicate with the general public through advertisements, direct mailings, et cetera, in order to influence an election or to set forth a candidate's position on any public issue, his voting record, or other official acts, for the purpose of electing or defeating that candidate, to report as if that organization were a political committee.



[II.J : Persons other than political committees, candidates or individuals]

"But this section [§308] does not reach an organization that limits itself to activities along the following lines: issuing communications directed to its members, making its position known to members of the press and to public officials, or participating in conferences and meetings and other discussions devoted to public issues. In other words, section 308 will cover organizations that use their funds to propagandize the general public but does not restrict internal communications or restrict the flow of news or the discussion of issues."

An organization which may fall within the broad interpretation of this provision should seek clarification from the Commission before the organization makes a final determination that it does not have to file a report.

The legislative history indicates that broadcast stations or newspapers which carry advertising intended to affect an election do not have to file reports, but rather the organizations which paid for the advertising must file the reports.

K. Reports on convention financing (2 U.S.C. §437)

Each committee or other organization which

1. represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President, or Vice President; or
2. represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President

shall within sixty days following the end of the convention (but not later than twenty days prior



[II.K: Convention financing]

to the date on which Presidential and Vice Presidential electors are chosen), file with the Federal Election Commission a full and complete financial statement, in such form and detail as it may prescribe, of the sources from which it derived its funds, and the purposes for which such funds were expended.

L. Formal requirements for reports and statements
(2 U.S.C. §436)

1. Preservation

A copy of a report or statement shall be preserved by the person filing it for a period of time designated by the Federal Election Commission in a published regulation.

2. Manner of reporting certain items

The Commission shall, by publishing regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements and promises to make contributions or expenditures shall be reported. Such regulations shall provide for separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

3. Filing by mail

If a report or statement is delivered by registered or certified mail to the Commission or principal campaign committee with which it is required to be filed, the United States postmark stamped on the cover of the envelope or other container in which such report or statement is so mailed shall be deemed to be the date of filing.



[II.M: Waiver of reporting requirements]

M. Waiver of reporting requirements

The Commission may, by a rule of general applicability which is published in the Federal Register not less than 30 days before its effective date, relieve

1. any category of candidates of the obligation of complying personally with the reporting requirements, if the Commission determines that such action is consistent with the purposes of the Act; and
2. any category of political committees of the obligation of complying with the reporting requirements, if the political committees
 - a. primarily support persons seeking State or local office; and
 - b. do not operate in more than one State or do not operate on a statewide basis.

Comment: Clarification of the meaning of the phrase "primarily support persons seeking State or local office" should be sought from the Commission. If such a rule is promulgated it would seem to be advantageous for State/local political committees supporting candidates for State or local office to be separate from State/local political committees supporting candidates for Federal office. See section I.A.4 supra.

N. Filing reports with State officers (§317 of the Act)

1. A copy of the following reports required to be filed with the Federal Election Commission must be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the following States:
 - a. A copy of reports and statements relating to expenditures and contributions



[II.N: Filing with State officers]

in connection with the campaign for nomination for election, or election, of a candidate to the office of President or Vice President must be filed in each State in which an expenditure is made by him or on his behalf.

- b. A copy of reports and statements relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States must be filed in the State in which the candidate seeks election.
2. The Secretary of State, or the equivalent State officer, shall
- a. receive and maintain in an orderly manner all such reports and statements required to be filed with him;
 - b. preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;
 - c. make the reports and statements filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it was received;
 - d. permit copying of any such report or statement by hand or by duplicating machine at the expense of any person requesting permission to make copies; and



Chapter II: Reporting and Disclosure

[II.N: Filing with State officers]

- e. compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

O. Penalties (§321 of the Act)

Any person who violates any provision discussed in this Chapter II may be fined not more than \$1,000 or imprisoned not more than one year or both.

Where the punishment inflicted pursuant to a conviction does not include imprisonment, such conviction will be deemed a misdemeanor conviction only.

P. Additional enforcement authority: disqualification from eligibility to be a candidate (2 U.S.C. §456)

IF after notice and opportunity for a hearing on the record, the Commission finds, subject to judicial review, that a person failed to file a required report while he was a candidate, and

IF the finding is made before the expiration of the statute of limitations (see section IV.A. infra),

THEN such person shall be disqualified from becoming a candidate in any future election for Federal office for a period of time beginning on the date of the finding and ending one year after the expiration of the term of the Federal office for which such person was a candidate.

Comment: Legislative history indicates that the disqualification provision shall not be applied if the candidate involved demonstrates that he did not receive timely notice from the Commission advising him of the approaching filing date regarding reports the candidate is required to file under the reporting and disclosure provisions of the Act. The statute itself, however, does not explicitly provide for such notification. Clarification should be sought from the Federal Election Commission.



Chapter II: Effect on State Law

[II.Q: Effect on State Law]

Q. Effect on State law (§403 of the Act)

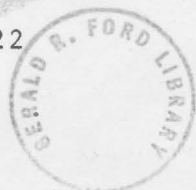
The Federal statutory provisions described in this Chapter II supersede and preempt any provisions of State law with respect to election to Federal office, as of October 15, 1974.





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CHAPTER III

FEDERAL ELECTION COMMISSION

One of the important innovations contained in the 1974 Amendments (§§310-316 of the Act) was the establishment of the Federal Election Commission ("the Commission"). The Commission will assume the responsibilities that were given to the supervisory officers under the 1971 Act and will play a major role in enforcing the provisions of the Act. One supporter of the creation of an independent Federal Election Commission has stated that the advantages of the Commission over the earlier system of enforcement under the 1971 Act are that the Commission should (1) restore public confidence in the effectiveness and fairness of election laws; (2) prevent unfair prosecutions by the Department of Justice; (3) eliminate the conflict of interest inherent in the former enforcement system whereby employees of the House and Senate are charged with identifying and reporting possible violations of the law committed by their employers; (4) reverse the history of nonenforcement of prior laws; (5) reduce the Federal bureaucracy by combining into one agency the present work of the Clerk of the House, the Secretary of the Senate and the Comptroller General; (6) increase coordination in enforcing the law; (7) be an agency that can be held accountable for shortcomings in enforcement of the law; and (8) assure expeditious enforcement of the law.

A. Organization (§310 of the Act)

1. Composition of the Commission

The Commission is composed of eight members:

- a. Two members, not affiliated with the same political party, appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate with confirmation by a majority of both Houses of Congress.



[III.A.1: Organization (composition)]

- b. Two members, not affiliated with the same political party, appointed by the Speaker of the House of Representatives upon the recommendations of the majority and minority leaders of the House with confirmation by a majority of both Houses of Congress.
- c. Two members, not affiliated with the same political party, appointed by the President of the United States with confirmation by a majority of both Houses of Congress.
- d. Secretary of the Senate (non-voting member).
- e. Clerk of the House of Representatives (non-voting member).

Comment: It is not entirely clear whether both the majority and the minority leaders must both recommend the appointment of any member who is eventually appointed.

2. Terms of members of Commission

- a. Voting members of the Commission will serve for a term of six years with special provisions for the first appointed members.
- b. The terms of the first appointed members are as follows:
 - (1) One of the members chosen by the President pro tempore of the Senate will be appointed for a term ending on the first April 30th occurring more than 6 months after the date on which he was appointed. The other member chosen in this manner will serve for a term ending three years after the end of the term of the first member.



[III.A.2: Organization (terms of members)]

- (2) One of the members appointed by the Speaker of the House will be appointed for a term ending one year after the end of the term of the member appointed by the President pro tempore of the Senate whose term first expires. The other member appointed by the Speaker will serve for a term ending four years after the expiration of the term of the member appointed by the President pro tempore of the Senate whose term first expires.
- (3) One member appointed by the President will be appointed for a term ending two years after the expiration of the term of the member appointed by the President pro tempore of the Senate whose term first expires. The other member appointed by the President will serve for a term ending five years after the expiration of the term of the member appointed by the President pro tempore of the Senate whose term first expires.

Comment: Except for the first members, members of the Commission will serve for six years. The terms of the members of the Commission are staggered in such a way that the term of one member will expire each year.

3. Vacancies

- a. When vacancies occur, the same procedure for appointment as was followed in making the original appointment will be followed.
- b. A person filling a vacancy (other than a vacancy occurring as a result of the expiration of a term of office) will only serve the unexpired term of his predecessor.



[III.A.4: Organization (qualifications of members)]

4. Qualifications

Any individual may serve on the Commission EXCEPT those who at the time of appointment are elected or appointed officers or employees in the executive, legislative or judicial branch of the Government of the United States.

5. Compensation

Except for the Secretary of the Senate and the Clerk of the House, members of the Commission will receive compensation equivalent to the compensation paid at level IV of the Executive Schedule.

6. Chairman and vice chairman

- a. A chairman and a vice chairman, not affiliated with the same political party, will be chosen from the appointed members of the Commission and will serve a term of one year.
- b. No individual member may serve as chairman more than once during any one term of office.
- c. The vice chairman will act as chairman in the event of an absence, disability or vacancy in the office of chairman.

7. Voting requirements

- a. A majority vote is required before the Commission can exercise its duties and powers.
- b. No member may delegate his vote or any decision-making authority or duty.



[III.A.8: Organization (meetings)]

8. Meetings

- a. The Commission is required to meet at least once each month and also upon the request of any member.
- b. The Commission may meet and exercise its powers anywhere in the United States.

Comment: Legislative history makes it clear that the Commission is intended to be a full-time agency.

9. Internal rules; seal; principal office

The Commission shall have:

- a. written rules for the conduct of its activities;
- b. an official seal; and
- c. a principal office in or near the District of Columbia.

10. Staff director and general counsel

The Commission shall appoint a staff director and general counsel. Their duties, powers, and rates of pay are as follows:

- a. The staff director shall be paid at a rate not to exceed the rate of basic pay in effect for level IV of the Executive Schedule. He may appoint and fix the pay of additional personnel with approval from the Commission, and he may procure temporary services at rates that do not exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule.
- b. The general counsel shall be paid at a rate not to exceed the rate of basic pay



[III.A.10: Organization (staff director and general counsel)]

in effect for level IV of the Executive Schedule.

B. Jurisdiction (§310 of the Act)

The Commission shall administer, seek to obtain compliance with, formulate policy and have primary jurisdiction with respect to the civil enforcement of

1. the provisions of the Act, and
2. the following provisions of the Federal Criminal Code:
 - a. Limitations on political contributions and expenditures (18 U.S.C. §608; see sections I.B and I.C supra);
 - b. Contributions or expenditures by national banks, corporations or labor organizations (18 U.S.C. §610; see section I.B.8 supra);
 - c. Contributions by government contractors (18 U.S.C. §611; see section I.B.9 supra);
 - d. Contributions by foreign nationals (18 U.S.C. §613; see section I.B.10 supra);
 - e. Prohibition of contributions in name of another (18 U.S.C. §614; see section I.B.10 supra);
 - f. Limitations on contributions of currency (18 U.S.C. §615; see section I.B.12 supra);
 - g. Acceptance of excessive honorariums (18 U.S.C. §616; see section I.B.13 supra); and
 - h. Fraudulent misrepresentation of campaign authority (18 U.S.C. §617; see section I.D.1 supra).



[III.B: Jurisdiction]

Comment: Legislative history makes it clear that the Commission may proceed independently on civil matters. All criminal matters, however, must still be handled by the Department of Justice.

C. Powers (§311 of the Act)

The Commission has the power to:

1. require any person to submit in writing reports and answers to questions within a reasonable period of time and under oath or otherwise as the Commission may determine;
2. administer oaths or affirmations;
3. require by subpoena, signed by the chairman or vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of the Commission's duties;
4. order testimony to be taken by deposition;
5. pay witness and mileage fees commensurate with those paid in the courts of the United States;
6. initiate, defend, or appeal through its general counsel any civil action in the name of the Commission for the purpose of enforcing the provisions of the Act;
7. give advisory opinions;
8. make, amend, or repeal its internal rules as may be necessary to carry out the provisions of the Act;
9. formulate general policy with respect to the administration of the Act and the



[III.C: Powers]

relevant provisions of the Federal Criminal Code cited in section B above;

10. develop reporting forms; and
11. conduct hearings and investigations expeditiously, encourage voluntary compliance, and report apparent violations to law enforcement authorities.

D. Duties (§316 of the Act)

The Commission is required:

1. to develop and furnish the reporting forms that are required to be filed with the Commission;
2. to provide a manual setting forth uniform methods of reporting and bookkeeping to those people required to file reports with the Commission;
3. to develop a filing, coding, and cross-indexing system;
4. to make public for inspection, copying or duplicating--at the expense of the person making the request--all reports filed with the Commission, no later than the end of the second day after the day on which the report was received (information so copied may not be used for the purpose of soliciting contributions or for any commercial purposes);
5. to preserve reports and statements for a period of ten years from the date of receipt, except those reports and statements relating solely to candidates for the House of Representatives, which shall be preserved for only five years;



[III.D: Duties]

6. to maintain a cumulative index of all filings made with it, to publish this index in the Federal Register at regular intervals and to make this index available for sale, directly or by mail, at a reasonable price;
7. to publish special reports listing those candidates for whom required reports have been filed and those candidates for whom required reports have not been filed;
8. to make periodic audits and field investigations with respect to filings and alleged failures to file;
9. to report apparent violations of the law to appropriate law enforcement authorities;
10. to serve as a national clearinghouse for information with respect to the administration of elections;
11. to enter into contracts for the purpose of conducting independent studies of the administration of elections, including studies of
 - a. the method of selection of, and the types of duties assigned to, officials and personnel working on boards of elections;
 - b. practices relating to the registration of voters;
 - c. voting and counting methods;and to publish such studies and make them available for purchase.



[III.E: Rules and regulations]

E. Rules and regulations (§316 of the Act)

1. Authority and procedure for promulgation

a. Authority

The Commission must prescribe suitable rules and regulations to carry out the provisions of the Act.

b. Procedure

(1) Prior to promulgation, any rule or regulation proposed by the Commission must be submitted to the following Houses of Congress with a full explanation and justification:

(a) Any rule or regulation that pertains to reports required to be filed by a candidate, or a political committee supporting a candidate, for the office of United States Senator must be submitted to the Senate.

(b) Any rule or regulation that pertains to reports required to be filed by a candidate, or a political committee supporting a candidate, for the office of Representative, Delegate, or Resident Commissioner must be submitted to the House of Representatives.

(c) Any rule or regulation that pertains to reports required to be filed by a candidate, or a political committee supporting a candidate, for the office of President of the



[III.E: Rules and regulations]

United States must be submitted to both Houses of Congress.

- (2) If the relevant House or Houses of Congress that receive the proposed rule or regulation do not disapprove the rule or regulation within 30 days after it was received (counting only those calendar days when the relevant House or Houses are in session), the Commission may prescribe that rule or regulation. If the House that receives the proposed rule or regulation (or either House in the case of proposed rules and regulations on reports by candidates for President of the United States) disapproves the proposal, the Commission may not prescribe the rule or regulation.

Comment: Legislative history makes it clear that the House and Senate should strive to attain uniformity in the rules and regulations which they approve.

2. Rules and regulations designating Clerk of House and Secretary of Senate as custodians for the Commission

- a. The Commission must prescribe appropriate rules and regulations requiring that
 - (1) reports of a candidate, or a political committee supporting a candidate, for the office of Representative, Delegate or Resident Commissioner be filed with the Clerk of the House of Representatives as custodian for the Commission;
 - (2) reports of a candidate, or a political committee supporting a candidate, for the office of Senator be



[III.E.2: Rules and regulations (custodians for Commission)]

filed with the Secretary of the Senate as custodian for the Commission; and

- (3) the Clerk of the House of Representatives and the Secretary of the Senate, as custodians for the Commission, shall each--on the terms and in the manner described in sections III.D.4 and 5 supra--make reports and statements received by them available for public inspection and copying and shall each preserve such reports and statements.

- b. The Clerk of the House of Representatives and the Secretary of the Senate must cooperate with the Commission and furnish necessary services and facilities.

F. Advisory opinions

1. Who may request an advisory opinion of the Commission

The following persons may request an advisory opinion of the Commission:

- a. any individual holding Federal office;
b. any candidate for Federal office; or
c. any political committee.

2. Form

The request must be in writing.

3. When and how the opinion must be given by the Commission

Within a reasonable time and in writing.



[III.F.4: Advisory opinions (subjects)]

4. Subjects on which opinion may be given

Whether any specific transaction or activity by the individual, candidate, or committee requesting the opinion would violate

- a. the Act;
- b. the provisions of the Internal Revenue Code governing the Presidential Election Campaign Fund and the Presidential Primary Matching Payment Account (Chapters 95 & 96 of the Internal Revenue Code of 1954; see Chapter V infra); or
- c. those sections of the Federal Criminal Code listed in section III.B supra.

5. Effect

Any person for whom an advisory opinion has been rendered who acts in good faith compliance with the advisory opinion shall be presumed to be in compliance with the provisions of the Act.

6. Publicizing requests

Any request for an advisory opinion shall be made public by the Commission. Before any opinion is issued the Commission shall allow any interested party to submit written comments on any such request.

Comment: Whenever an individual holding Federal office, a candidate for Federal office or a political committee is in doubt as to the legality of a particular transaction or activity, an advisory opinion should be requested from the Commission.

G. Reports by the Commission (§312 of the Act)

The Commission shall submit to the President and to both Houses of Congress an annual report no



[III.G: Reports to President and Congress]

later than March 31 of each year detailing its activities and recommendations.

H. Submission of budget estimates and legislative recommendations by Commission (§311 of the Act)

1. Any budget estimates, legislative recommendations, or testimony or comments on legislation submitted to the President or the Office of Management and Budget shall concurrently be submitted to Congress.
2. No officer or agency of the United States shall have authority to require the Commission to submit its legislative recommendations, testimony or comments on legislation for approval, comments, or review prior to their submission to Congress.

I. Enforcement (§314 of the Act)

1. Initiation of investigations

a. Who may initiate an investigation by the Commission

- (1) Any person who believes that there has been a violation of the Act or of the provisions of the Federal Criminal Code listed in section III.B supra may file a complaint with the Commission.
- (2) The Clerk of the House of Representatives or the Secretary of the Senate, both of whom receive reports and statements as custodians for the Commission, shall refer apparent violations of the Act or of the provisions of the Federal Criminal Code listed in section III.B supra to the Commission.
- (3) The Commission may investigate any apparent violation on its own initiative.



[III.I.1.b: Enforcement (action by commission)]

b. What the Commission does when a complaint is filed, a referral is made or it suspects a violation

- (1) It must notify the person involved of the apparent violation.
- (2) It must either
 - (a) report the apparent violation to the Attorney General, or
 - (b) make an investigation of the apparent violation.

2. Investigations

a. Speed and scope

Investigations shall be conducted expeditiously and shall include an investigation of reports and statements filed by a complainant, if the complainant is a candidate.

Comment: When a candidate files a complaint with the Commission, the Commission must investigate not only the complaint but also the reports and statements that have been filed by the complaining candidate with respect to his own campaign.

b. Secrecy

Any notification or investigation shall not be made public by the Commission or by any other person without the written consent of the person receiving the notification or the person with respect to whom the investigation is made.

3. Hearings

Any person receiving a notice of an investigation may request, and if requested



[III.I.3: Enforcement (hearings)]

shall receive, a hearing with respect to the apparent violation.

4. Enforcement of Commission's orders or subpoenas

The United States district court having jurisdiction over the district wherein an inquiry is being made may issue an order requiring compliance with any subpoena or order of the Commission. A contempt citation may be issued upon a failure to obey.

5. No civil liability for disclosing information to the Commission

No person shall be subject to civil liability to anyone (other than to the Commission or to the United States) for disclosing information at the request of the Commission.

6. Informal methods of correction

If the Commission determines, after investigation, that there is reason to believe that any person has engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of the Act, it may endeavor to correct such violation by informal methods of conference, conciliation, and persuasion.

7. Civil action for relief

- a. If the Commission fails to correct the violation through informal methods, it may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.



[III.I.7: Enforcement (civil action for relief)]

- b. Upon a proper showing that such person has engaged, or is about to engage, in such acts or practices, the court shall grant a permanent or temporary injunction, restraining order, or other order.

8. Criminal violations and referral to law enforcement authorities

The Commission shall refer apparent violations to the appropriate law enforcement authorities

- a. if violations of the Federal Criminal Code are involved; or
- b. if the Commission is unable to correct apparent violations of the Act by informal methods of correction or by a civil action; or
- c. if the Commission determines that such a referral is appropriate.

9. Actions brought by the Attorney General and relief in such actions

- a. After due notice and a hearing concerning an apparent or expected violation of the Act or of the provisions of the Federal Criminal Code listed in section III.B supra, the Commission may request that the Attorney General file a civil action in Federal district court, for the district in which the person is found, resides or transacts business, on behalf of the United States seeking relief (including a permanent or temporary injunction, restraining order or any other appropriate order).
- b. Upon a showing that such person has engaged, or is about to engage, in such acts or practices, the court shall grant an appropriate injunction or order without bond.



Chapter III: Federal Election Commission

[III.I.9: Enforcement (actions brought by Attorney General)]

c. Reports on cases referred to the Attorney General by the Commission

- (1) The Attorney General shall report to the Commission with respect to any action taken by the Attorney General on a case referred to it by the Commission.

The reports shall be transmitted to the Commission no later than 60 days after the Commission referred the case to the Attorney General and at the close of every 30-day period thereafter until there is a final disposition of the case.

- (2) The Commission may from time to time prepare and publish reports on the status of such referrals.

10. Subpoena power

In any action brought by the Commission or the Attorney General pursuant to the provisions of the Act, subpoenas for witnesses who are required to attend a United States district court may run into any other district.

11. Appeal

- a. Any party aggrieved by a district court order may appeal the order to the United States court of appeals for the circuit in which the order was issued within 60 days of the issuance of the order.
- b. The judgment of the United States court of appeals is final, subject to review by the Supreme Court of the United States.



[III.I.12: Enforcement Commission (expedition of actions)]

12. Expedition of actions

Any action brought to correct an apparent or expected violation of the Act or of the provisions of the Federal Criminal Code listed in section III.B supra shall be advanced on the docket of the court and put ahead of all actions (other than another such action or an action to test the constitutionality of the Act).

J. Additional responsibilities relating to public financing of conventions and elections (Chapters 95 and 96 of the Internal Revenue Code)

The Commission has certain additional responsibilities under the provisions dealing with public financing of Presidential primary and general elections and national party nominating conventions. (See Chapter V infra.)

K. Transfer of authority to the Commission (§208(b) of the 1974 Amendments)

Those authorities presently charged with administering the Federal election laws, namely the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall continue to do so until all the members of the Commission and a general counsel have been appointed. At a meeting to be held upon the appointment of the Commission members and the general counsel arrangements will be made for the transfer--within 30 days after the appointment of the Commission members and the general counsel--of all appropriate records, documents, memorandums and other relevant papers from the old authorities to the Commission.

L. Appropriation of funds for the Commission (§320 of the Act)

Congress has authorized the appropriation of an amount not in excess of \$5,000,000 for the Commission's use for the fiscal year ending June 30, 1975.

