Three New Commissioners Join FEC

On July 30, the Senate confirmed the nominations of David M. Mason, Karl J. Sandstrom and Darryl R. Wold to the Commission, and the renomination of Commissioner Scott E. Thomas. Mr. Mason and Mr. Sandstrom began their duties at the Commission in August, and Mr. Wold is expected to take his seat on the Commission this month.

Mr. Mason was a senior fellow at The Heritage Foundation, where he concentrated on research, writings and commentary on Congress and national politics. Before joining the Heritage Foundation, Mr. Mason served as a deputy assistant secretary for the Department of Defense. For nearly a decade, he worked on Capitol Hill in the offices of Senator John Warner, Representative Tom Bliley and former House Republican Whip Trent Lott. Mr. Mason holds an honors degree in political science from Claremont McKenna College. He assumed the seat on the Commission that had been vacant since the 1995 resignation of former Commissioner Trevor Potter.

Mr. Sandstrom was formerly chairman of the Administrative Review Board at the Department of Labor. Before that, he served as...
Commissioners
(continued from page 1)

staff director of the House Subcommittee on Elections and was staff
director of the House Task Force on
Electoral Reform. Mr. Sandstrom
also served as the deputy chief
counsel to the House Administration
Committee and was an adjunct
professor at American University. He
received a bachelor’s degree
from the University of Washington,
and holds a law degree from George
Washington University and a
master’s degree in tax law from
Georgetown University Law Center. He fills the seat of former Commissi-
oner John Warren McGarry.

Mr. Wold has represented candi-
dates under federal, state and local
political action committees and
ballot measure committees,
Mr. Wold was the executive
assistant to former Commissioner
Thomas E. Harris. He originally
came to the FEC as a legal intern
and later became an assistant
general counsel for enforcement. A
Wyoming native, Mr. Thomas
graduated from Stanford University
and holds a law degree from
Georgetown University Law Center.

Mr. Sandstrom’s and Mr. Wold’s
terms expire in 2001; Mr. Mason’s
and Mr. Thomas’s terms expire in
2003. ✪

Federal Election Commission
999 E Street, NW
Washington, DC 20463
800/424-9530
202/694-1100
202/501-3413 (FEC Faxline)
202/219-3336 (TDD for the
hearing impaired)
800/877-8339 (FIRS)

Joan D. Aikens, Chairman
Scott E. Thomas, Vice Chairman
Lee Ann Elliott, Commissioner
David M. Mason, Commissioner
Danny L. McDonald, Commissioner
Karl J. Sandstrom, Commissioner
James A. Pehrkon, Acting Staff
Director
Lawrence M. Noble, General
Counsel
Published by the Information
Division
Louise D. Wides, Director
Angela Rucker, Editor
http://www.fec.gov

Reports

Contributor Search Feature
Added to FEC Web Site

Internet users who log on to
http://www.fec.gov now have
immediate access to the name and
contribution amount of any indi-
vidual who has contributed $200 or
more to a federal political commit-
tee during the 1997-1998 election
cycle. The FEC’s new searchable
database also allows users to access
lists of PACs or party committees
that have contributed to specific
candidates and view lists of candi-
dates to whom selected PACs and
parties have contributed.
The new database search process
became accessible on July 21, and is
updated daily. Already, Internet
users can visit the FEC’s web site to
view images of original reports
dating back to the 1995-1996

Use of FEC Web Site,
Electronic Filing Up

The FEC’s web disclosure system
received about 380,000 hits between
July 1 and July 27, prime time for
viewing political committees’ July
quarterly and monthly reports.
Using the FEC’s web site, the public
could view images of actual reports
recently filed by candidates and
political committees.

Other people chose to access
these documents by contacting the
Commission’s Public Records
Office. That office recorded nearly
1,100 walk-in customers and almost
1,250 telephone inquiries, July 6-27.

A growing number of reports
filed with the Commission were
done so electronically. Electronic
filing by FEC filers increased to 178
political committees, up from the
101 committees that filed electroni-
cally during the first quarter. More
than half of the committees that
filed electronically did so over the
Internet or by dialing up one of the
FEC’s modems dedicated to receiv-
ing reports transmitted to the
agency. The majority of those
committees used the FEC’s soft-
ware, FECFile, in filing their
reports.

New committees now receive a
copy of FECFile along with their
registration packets. Existing
committees can request a copy of
FECFile by calling the Electronic
Filing Office at 202/694-1293 or
800/424-9530 (press 5 and ask for
the Electronic Filing Office). ✪
Court Cases

Judicial Watch, Inc. v. FEC

On July 2, the U.S. District Court for the District of Columbia denied the FEC’s motion to dismiss this lawsuit challenging the agency’s dismissal of an administrative complaint filed by Judicial Watch, Inc. The court remanded the case to the FEC and ordered it to decide whether to pursue the administrative complaint within 120 days. The FEC has filed notice that it will appeal this decision.

Background

In February, Judicial Watch filed this lawsuit after the Commission voted to take no action on its administrative complaint, which alleged that the White House, Democratic National Committee (DNC), Department of Commerce and Clinton administration had sold seats on foreign trade missions for large campaign contributions to the DNC and the Clinton/Gore 1996 reelection campaign. Judicial Watch contended that the contributions violated 18 U.S.C. §600, a criminal statute which makes it unlawful to promise any special benefit or treatment as a reward for political activities in support of or opposition to a particular candidate, election or political event. See the April 1998 Record, p. 4.

District Court Decision

The FEC moved to dismiss this case for lack of standing. In order to establish standing, a plaintiff such as Judicial Watch must show that it has suffered an injury in fact, that there is a causal connection between the injury and the conduct being complained about and that it is likely that the injury will be redressed by a favorable decision. The FEC claimed that Judicial Watch failed to allege an injury flowing from the Federal Election Campaign Act (the Act). The court disagreed. It pointed out that, in FEC v. Akins, the U.S. Supreme Court concluded that, for purposes of standing, an injury was created when a plaintiff failed to obtain information that had to be publicly disclosed. Thus, affected voters who do not have access to such information have standing to sue. The district court held that, in this case, information that trade mission seats may have been exchanged for contributions to the DNC and Clinton/Gore committee was “important and useful to voters.”

The FEC also argued that Judicial Watch did not have standing because its administrative complaint failed to identify violations of the Act over which the Commission had jurisdiction. The complaint only made allegations of bribery, not of reporting violations. The court stated, however, that no plaintiff is required to supply the FEC with a “legal theory” under the Act in order for the agency to pursue an administrative complaint. “At minimum, the FEC, as an agency acting in the public interest, should not interpret complaints narrowly,” the court stated.

The court went on to note that the matters outlined in the administrative complaint could raise reporting issues. The court said a contribution in exchange for participation in trade missions could be classified as an offset to a contribution, a refund of a contribution or a disbursement. The DNC and Clinton/Gore committee might have had an obligation to report such transactions.

The court further noted that the FEC failed to notify Judicial Watch that its administrative complaint was technically deficient, as is required by 11 CFR 111.5. The court also stated that, “If . . . the allegations were not within its prosecutorial jurisdiction, the FEC should have referred the matter to the Department of Justice or the appropriate agency.”

The court also dismissed the FEC’s argument that a huge backlog of cases at the agency requires it to dismiss administrative complaints such as the one filed by Judicial Watch without investigating them because of a lack of financial and human resources. The court said the FEC should have raised this issue in the administrative proceedings.


DNC v. FEC (97-676)

On July 2, at the request of the FEC, and with the consent of the Democratic National Committee (DNC), the U.S. District Court for the District of Columbia dismissed this case without prejudice and remanded the matter back to the FEC to review the impact of the appellate and U.S. Supreme Court decisions in Akins v. FEC on issues presented in this case. See the December 1995, February 1997 and July 1998 Record issues (all articles are on p. 1).

The suit concerned the Commission’s dismissal of the DNC complaint alleging that the Christian Coalition is a political committee. See the June 1997 Record, p. 7.

U.S. District Court for the District of Columbia, 97-676.

Right to Life of Dutchess County, Inc. v. FEC

On July 20, the U.S. District Court for the Southern District of New York granted the FEC’s motion to clarify that its June ruling enjoined the FEC only from enforcing 11 CFR 100.22(b) against Right to Life of Dutchess County, Inc.

In June, the court determined that the Commission’s regulation at 11 CFR 100.22(b) violated the First Amendment. The part of the regulation in dispute defines express advocacy as a communication that,

(continued on page 4)
Court Cases
(continued from page 3)
when taken as a whole and with limited reference to external events (such as proximity to an election), can only be interpreted by a reasonable person as unambiguously advocating the election or defeat of a clearly identified candidate. In its initial order, the court simply enjoined the FEC from enforcing this regulation. See the July 1998 Record, p. 3.
U.S. District Court for the Southern District of New York, 97-2614.

Hollenbeck v. FEC
On July 27, the U.S. District Court for the District of Columbia granted the FEC’s motion to dismiss this case for lack of standing.
Thomas Hollenbeck, a Pennsylvania resident, had filed suit against the FEC after it had dismissed his administrative complaint alleging that a 1994 candidate for federal office had accepted excessive loans. See the July 1998 Record, p. 3.

In order to show standing, a plaintiff must meet the requirements found in Article III of the Constitution—i.e., injury in fact, causation and redressability. The court concluded that Mr. Hollenbeck did not meet the requirements for standing because he failed to allege a “concrete and particularized injury” that came about as a result of a violation of the Federal Election Campaign Act. Mr. Hollenbeck, the court said, only vaguely alleged an injury, claiming violations of his First and Fourteenth Amendment rights and the need to protect the public from abuses by federal candidates.


Advisory Opinions

AO 1998-12
Solicitation of Employee Stockholders
Ashland Inc. Political Action Committee for Employees (the Committee) may solicit, as stockholders, Ashland employees who hold stock in the company, but who are not executive or administrative personnel, so long as the employees can draw at least one share of Ashland stock without incurring a suspension period. Additionally, the Committee’s parent company, Ashland, Inc., may use a payroll deduction plan to collect contributions from employees who qualify as Ashland stockholders.

Background
The Ashland Employee Savings Plan is open to employees with one year of service with the company or one of its subsidiaries. Participants choose from several investment alternatives, including mutual funds and Ashland’s own common stock fund. Employee contributions are placed either in an after tax account (funds in it are deposited from employee salaries after taxes have been assessed) or a tax-deferred account (funds in it are deposited from employee salaries before taxes are assessed). Ashland matches each participant’s contributions to the plan, with a portion of the match automatically invested in the Ashland fund. Ashland also matches any Ashland stock designated by the participant employee for other accounts.

Stockholder Defined
The Federal Election Campaign Act (the Act) allows a corporation or its separate segregated fund (SSF) to solicit contributions any time from its executive and administrative personnel, stockholders and the families of such individuals. 2 U.S.C. §441b(b)(4)(A)(i). A stockholder is a person who:
• Has a vested beneficial interest in stock,
• Has the power to direct how that stock will be voted (if it is voting stock), and
• Has the right to receive dividends. 11 CFR 114.5(g)(1).

Ashland employees meet the first and second requirements. All participants in the employee savings plan are fully vested regardless of their years of service to the company. Additionally, participants can vote their stock. A participant exercises this power by giving voting instructions to the trustee of the plan, who then votes the participant’s shares.

The third requirement, the ability to receive dividends, is somewhat comparable to the right of employees to withdraw funds from their accounts. The test that the Commission has used to measure this is whether “participants are able to withdraw at least one share of stock purchased … without incurring a suspension period.” Thus, those who have already withdrawn at least one share of Ashland stock, and who continue to hold one share of the company’s stock, have withdrawal rights and qualify as stockholders for purposes of the Act. For other employees, withdrawal rights vary with the type of contribution plan account through which the employee has ownership of Ashland stock.

Depending on the technical features of the various accounts, an employee can be eligible to withdraw stock without incurring a suspension, and could hold at least one share of Ashland stock. If that is the case, he or she may be solicited as a stockholder.

Payroll Deduction
In two advisory opinions (AO 1996-10 and AO 1983-17), the
Congressional Fundraising Continues Climb

U.S. House and Senate candidates disclosed $484.3 million in receipts for the 1997-1998 election cycle, an 8 percent increase over the same total for the 1995-1996 election cycle. Spending was up by only 3 percent, with candidates reporting a total of $301.6 million in disbursements. These figures are based on information contained in reports covering activity through June 30.

Contributions received by Senate candidates ($191.5 million) increased by 13 percent over the previous election cycle, but disbursements ($117.9 million) increased by a negligible .9 percent. House candidates reported small increases from the last election cycle, with a 5 percent increase in receipts, or $292.8 million, and a 4 percent increase in disbursements, or $183.7 million.

The median receipts for House candidates increased over the previous election cycle in all categories with the exception of Republican incumbents. See the chart below. There also are fewer open seats in this election cycle and fewer nonincumbents who reported receipts of at least $50,000.

A comprehensive compilation of candidate fundraising during the 1997-1998 election cycle as reported in July quarterly reports is available in an August 14 news release. The release is available:

- At the FEC’s web site: http://www.fec.gov (click “News Releases and Media Advisories” at the main menu);
- From the Public Records Office and the Press Office (call 800/424-9530); and
- By fax (call FEC Faxline at 202/501-3413 and request document 610).

The chart on this page is based on data taken from this news release. To view digital images of candidate committees’ reports submitted to the Commission, visit the FEC’s web site and click “View Financial Reports Filed by Presidential and House Campaigns, Parties and PACs.”

(Statistics continued on page 6)

Median Receipts of House Candidates for 1998 Election Cycle Through June 30*

<table>
<thead>
<tr>
<th>Type of Candidate</th>
<th>1996 Median Receipts</th>
<th>1998 Median Receipts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democratic Incumbents</td>
<td>$296,826</td>
<td>$348,602</td>
</tr>
<tr>
<td>Republican Challengers</td>
<td>$34,486</td>
<td>$42,970</td>
</tr>
<tr>
<td>Republican Incumbents</td>
<td>$433,153</td>
<td>$420,813</td>
</tr>
<tr>
<td>Democratic Challengers</td>
<td>$35,756</td>
<td>$44,385</td>
</tr>
<tr>
<td>Open Seats – Democrats</td>
<td>$123,602</td>
<td>$179,183</td>
</tr>
<tr>
<td>Open Seats – Republicans</td>
<td>$80,838</td>
<td>$115,120</td>
</tr>
</tbody>
</table>

* Median figures include only candidates who reported raising some money before June 30, 1998.
Contributions in the Names of Others

Two Baltimore restaurant owners and a third man have paid a total of $15,500 in civil penalties as part of three conciliation agreements concerning contributions made in the names of others, violations of 2 U.S.C. §441f.

This section of the Federal Election Campaign Act (the Act) prohibits making a contribution in the name of another, knowingly permitting one’s name to be used to make such a contribution and knowingly accepting such a contribution. Commission regulations go on to state that no person may knowingly help or assist any person in making a contribution in the name of another. 11 CFR 110.4(b)(1)(iii).

1 Nonconnected PACs must use their own funds to pay fundraising and administrative expenses, while the other categories of PACs have corporate or labor “connected organizations” that are permitted to pay those expenses for their PACs. On the other hand, nonconnected PACs may solicit contributions from the general public, while solicitations by corporate and labor PACs are restricted.

2 During the first six months of 1997, 227 PACs were administratively terminated because of inactivity.

Nonfilers

The campaign committees of the candidates listed below failed to file required campaign finance disclo-

<table>
<thead>
<tr>
<th>Candidate</th>
<th>Office Sought</th>
<th>Report Not Filed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clark, Barbara Marlene</td>
<td>House NY/06</td>
<td>July Quarterly</td>
</tr>
<tr>
<td>Darling, Alberta</td>
<td>Senate WI</td>
<td>July Quarterly</td>
</tr>
<tr>
<td>James, Bruce</td>
<td>Senate NV</td>
<td>July Quarterly</td>
</tr>
<tr>
<td>Kelly, Sue W.</td>
<td>House NY/19</td>
<td>July Quarterly</td>
</tr>
<tr>
<td>Kilpatrick, Carolyn Cheeks</td>
<td>House MI/15</td>
<td>Pre-Primary</td>
</tr>
<tr>
<td>Meeks, Gregory W.</td>
<td>House NY/06</td>
<td>July Quarterly</td>
</tr>
<tr>
<td>Munsell, Susan Grimes</td>
<td>House MI/08</td>
<td>Pre-Primary</td>
</tr>
<tr>
<td>Roberts, Darryl F.</td>
<td>House OK/03</td>
<td>July Quarterly</td>
</tr>
<tr>
<td>Schwartz, Kenneth L.</td>
<td>House NY/14</td>
<td>July Quarterly</td>
</tr>
<tr>
<td>Starky, Stuart M.</td>
<td>House AZ/03</td>
<td>July Quarterly</td>
</tr>
<tr>
<td>Sutherland, Doug</td>
<td>Senate WA</td>
<td>July Quarterly</td>
</tr>
<tr>
<td>Wright, Walter W. II</td>
<td>House MO/05</td>
<td>Pre-Primary</td>
</tr>
</tbody>
</table>
During the 1993-1994 election cycle, attorney Lalit Gadhia asked his clients Vinay Wahi and Satish Bahl, owners of a Baltimore restaurant, to make contributions to the Indian-American Leadership Investment Fund (IALIF) or to certain candidates. Mr. Gadhia promised them that their contributions would be reimbursed in cash as long as they or someone else could provide him a contribution in the form of a personal check of $1,000.

Mr. Wahi made five contributions totaling $4,500. Mr. Bahl contributed $1,000. Additionally, Mr. Wahi and Mr. Bahl solicited several other individuals—many of whom worked at their restaurant—for $8,500 in contributions. Another of Mr. Gadhia’s clients, Dr. S.V. Ramanurthy, made $4,000 in contributions at the attorney’s request, and solicited $3,000 in contributions from several individuals. The contributions went to IALIF and to several candidate committees. Mr. Gadhia subsequently reimbursed the three men for all of their contributions and for the contributions they solicited.1

The candidate committees that received contributions from the three men included Ben Cardin for Congress, Citizens for Sarbanes, Robb for the Senate, Murtha for Congress and Citizens for Senator Wofford. All of the committees have since disgorged the funds from their accounts, and paid the money to the U.S. Treasury. ♦

1 Lalit Gadhia was criminally prosecuted, convicted and incarcerated for these actions. Subsequently, the Commission found probable cause to believe that Mr. Gadhia knowingly and willfully made contributions in the names of others and solicited contributions from foreign nationals.

The first number in each citation refers to the “number” (month) of the 1998 Record issue in which the article appeared. The second number, following the colon, indicates the page number in that issue. For example, “1:4” means that the article is in the January issue on page 4.

**Advisory Opinions**
1997-18: Status of committee as local party committee, 1:14
1997-21: Refund to candidate who had made contribution to own campaign, 6:5
1997-22: Communicating membership corporation’s endorsements of federal candidates to members and their restricted classes, 1:14
1997-25: Affiliation of corporate SSFs after reorganization, 3:5
1997-26: Establishment of nonconnected PAC by individuals affiliated with trade association, 3:7
1997-27: Use of campaign funds to pay legal expenses, 4:7
1997-28: Reinstatement of terminated candidate committee to retire debt to candidate, 4:8
1997-29: Status as state committee of political party, 4:8
1998-1: Use of campaign funds to pay legal expenses, 4:8
1998-2: Status as national committee of political party; status of affiliated state parties as state committees of political party, 4:11
1998-3: Status as state committee of political party, 4:10
1998-4: Use of contributor lists from FEC reports for marketing “data mining” technologies, 6:5
1998-7: Exemption for party office building fund and construction of state party office facilities and parking lot, 7:8
1998-8: Preemption of Iowa law prohibiting corporate contributions to party building fund, 7:9

1998-9: Generic party expenditures made in connection with special election, 7:9
1998-12: Status of employee stockholders as part of restricted class, 9:4

**Court Cases**
FEC v. _____
– Al Salvi for Senate Committee, 4:4
– California Democratic Party, 8:5
– Charles Woods for U.S. Senate, 3:3
– National Medical Political Action Committee, 1:3; 7:5
– Williams, 1:3
_____ v. FEC
– Akins, 7:1
– Clifton, 4:5; 7:4
– DNC (97-676), 9:3
– DSCC (97-5160 and 97-5161), 6:4; 8:7
– Fulani, (97-1466), 8:6
– Gottlieb, 7:4
– Hollenbeck, 4:4; 9:4
– Judd, 6:5
– Judicial Watch, Inc., 4:4; 9:3
– National Committee of the Reform Party, 1:2; 4:4
– Natural Law Party (98-1025), 6:3
– Ohio Democratic Party (98-0991), 6:2; 8:5
– Perot ’96, Inc., (97-2554), 6:3
– Perot ’96, Inc., (98-1022), 6:3
– RNC (97-1552), 6:4
– RNC (98-1207 (WBB)), 6:1; 8:5
– Right to Life of Dutchess County, Inc., 7:3; 9:3
– Stockman, 5:3

**Reports**
Electronic filing, 2:2; 4:1; 4:2; 9:2
On FEC web site, 2:1; 4:2; 6:1; 9:2
Pre-Election Reporting Dates: 1998 Primary and Runoff Elections, 1:8
Reports, Alabama Runoff, 2:1
Reports due in 1998, 1:6; 1:11
Reports due in April, 4:2
Reports due in July, 7:11
Special Elections, California, 1:12; 3:9
Special Election, New Mexico, 5:3
Special Election, New York, 2:4
Special Election, Pennsylvania, 1:13