

Appendix to

A CAMPAIGN TO DEFRAUD

President Trump's Apparent Campaign Finance
Crimes, Cover-up, and Conspiracy

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Appendix A.1
52 U.S.C. § 30101

(3) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) [now 52 U.S.C. 20301 et seq.].

(4) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) [now 52 U.S.C. 20501 et seq.].

(5) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(6) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(b) No effect on preclearance or other requirements under Voting Rights Act

The approval by the Administrator or the Commission of a payment or grant application under subchapter I or subchapter II, or any other action taken by the Commission or a State under such subchapter, shall not be considered to have any effect on requirements for preclearance under section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) [now 52 U.S.C. 10304] or any other requirements of such Act [52 U.S.C. 10301 et seq.].

(Pub. L. 107–252, title IX, §906, Oct. 29, 2002, 116 Stat. 1729.)

REFERENCES IN TEXT

The National Voter Registration Act of 1993, referred to in subsec. (a), is Pub. L. 103–31, May 20, 1993, 107 Stat. 77, which is classified principally to chapter 205 (§20501 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 107–252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

The Voting Rights Act of 1965, referred to in subsecs. (a)(1) and (b), is Pub. L. 89–110, Aug. 6, 1965, 79 Stat. 437, which is classified generally to chapters 103 (§10301 et seq.), 105 (§10501 et seq.), and 107 (§10701 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

The Voting Accessibility for the Elderly and Handicapped Act, referred to in subsec. (a)(2), is Pub. L. 98–435, Sept. 28, 1984, 98 Stat. 1678, which is classified generally to chapter 201 (§20101 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in subsec. (a)(3), is Pub. L. 99–410, Aug. 28, 1986, 100 Stat. 924, which is classified principally to chapter 203 (§20301 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(5), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(6), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

Section was formerly classified to section 15545 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

Subtitle III—Federal Campaign Finance

CHAPTER 301—FEDERAL ELECTION CAMPAIGNS

SUBCHAPTER I—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

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SUBCHAPTER I—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

§ 30101. Definitions

When used in this Act:

(1) The term “election” means—

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party which has authority to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; and

(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

(2) The term “candidate” means an individual who seeks nomination for election, or election,

to Federal office, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election—

(A) if such individual has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000; or

(B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of \$5,000 or has made such expenditures aggregating in excess of \$5,000.

(3) The term “Federal office” means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

(4) The term “political committee” means—

(A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year; or

(B) any separate segregated fund established under the provisions of section 30118(b) of this title; or

(C) any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) aggregating in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year.

(5) The term “principal campaign committee” means a political committee designated and authorized by a candidate under section 30102(e)(1) of this title.

(6) The term “authorized committee” means the principal campaign committee or any other political committee authorized by a candidate under section 30102(e)(1) of this title to receive contributions or make expenditures on behalf of such candidate.

(7) The term “connected organization” means any organization which is not a political committee but which directly or indirectly establishes, administers or financially supports a political committee.

(8)(A) The term “contribution” includes—

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

(B) The term “contribution” does not include—

(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

(ii) the use of real or personal property, including a church or community room used on

a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual’s residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iii) the sale of any food or beverage by a vendor for use in any candidate’s campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(v) the payment by a State or local committee of a political party of the costs of preparation, display, or 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 clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 30118(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

(I) shall be considered a loan by each endorser or guarantor, in that proportion of

the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

(II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

(III) shall bear the usual and customary interest rate of the lending institution;

(viii) any legal or accounting services rendered to or on behalf of—

(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 30104(b) of this title by the committee receiving such services;

(ix) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(x) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or referenced to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided, That* such payments are made from contributions subject to the limitations and prohibitions of this Act;

(xi) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities

conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

(xii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access;

(xiii) any honorarium (within the meaning of section 30125 of this title); and

(xiv) any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, if such loan is made in accordance with applicable law and under commercially reasonable terms and if the person making such loan makes loans derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit in the normal course of the person's business.

(9)(A) The term "expenditure" includes—

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

(B) The term "expenditure" does not include—

(i) 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;

(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed \$2,000 for any election, be reported to the Commission in accordance with section 30104(a)(4)(A)(i) of this title, and in ac-

cordance with section 30104(a)(4)(A)(ii) of this title with respect to any general election;

(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or 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 clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 30118(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 30116(b) of this title, but all such costs shall be reported in accordance with section 30104(b) of this title;

(vii) the payment of compensation for legal or accounting services—

(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 30104(b) of this title by the committee receiving such services;

(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided*, That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided*, That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

(10) The term “Commission” means the Federal Election Commission.

(11) The term “person” includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

(12) The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(13) The term “identification” means—

(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

(14) The term “national committee” means the organization which, by virtue of the bylaws 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.

(15) The term “State committee” means the organization which, by virtue of the bylaws 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.

(16) The term “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 of such association, committee, or organization.

(17) INDEPENDENT EXPENDITURE.—The term “independent expenditure” means an expenditure by a person—

(A) expressly advocating the election or defeat of a clearly identified candidate; and

(B) that is not made in concert or cooperation with or at the request or suggestion of

such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents.

(18) The term “clearly identified” means that—

(A) the name of the candidate involved appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(19) The term “Act” means the Federal Election Campaign Act of 1971 as amended.

(20) FEDERAL ELECTION ACTIVITY.—

(A) IN GENERAL.—The term “Federal election activity” means—

(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);

(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or

(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

(B) EXCLUDED ACTIVITY.—The term “Federal election activity” does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);

(ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);

(iii) the costs of a State, district, or local political convention; and

(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

(21) GENERIC CAMPAIGN ACTIVITY.—The term “generic campaign activity” means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

(22) PUBLIC COMMUNICATION.—The term “public communication” means a communication by

means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

(23) MASS MAILING.—The term “mass mailing” means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

(24) TELEPHONE BANK.—The term “telephone bank” means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.

(25) ELECTION CYCLE.—For purposes of sections 30116(i) and 30117 of this title and paragraph (26), the term “election cycle” means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

(26) PERSONAL FUNDS.—The term “personal funds” means an amount that is derived from—

(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

(i) legal and rightful title; or

(ii) an equitable interest;

(B) income received during the current election cycle of the candidate, including—

(i) a salary and other earned income from bona fide employment;

(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

(iii) bequests to the candidate;

(iv) income from trusts established before the beginning of the election cycle;

(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

(vii) proceeds from lotteries and similar legal games of chance; and

(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property.

(Pub. L. 92-225, title III, §301, Feb. 7, 1972, 86 Stat. 11; Pub. L. 93-443, title II, §§201(a), 208(c)(1), Oct. 15, 1974, 88 Stat. 1272, 1286; Pub. L. 94-283, title I, §§102, 115(d), (h), May 11, 1976, 90 Stat. 478, 495, 496; Pub. L. 96-187, title I, §101, Jan. 8, 1980, 93 Stat. 1339; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 106-346, §101(a) [title V, §502(b)], Oct. 23, 2000, 114 Stat. 1356, 1356A-49; Pub. L. 107-155, title I, §§101(b), 103(b)(1), title II, §211, title III, §304(c), Mar. 27, 2002, 116 Stat. 85, 87, 92, 100.)

REFERENCES IN TEXT

The Federal Election Campaign Act of 1971, as amended, referred to in par. (19), is Pub. L. 92-225, Feb. 7, 1972, 86 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 431 of Title 2, The Congress, prior to editorial reclassification and renumbering as this section. Some section numbers referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification to this title.

AMENDMENTS

2002—Par. (8)(B)(viii) to (xv). Pub. L. 107-155, § 103(b)(1), redesignated cls. (ix) to (xv) as (viii) to (xiv), respectively, and struck out former cl. (viii) which read as follows: “any gift, subscription, loan, advance, or deposit of money or anything of value to a national or a State committee of a political party specifically designated to defray any cost for construction or purchase of any office facility not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office;”.

Par. (17). Pub. L. 107-155, § 211, added par. (17) and struck out former par. (17) which read as follows: “The term ‘independent expenditure’ means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.”

Pars. (20) to (24). Pub. L. 107-155, § 101(b), added pars. (20) to (24).

Pars. (25), (26). Pub. L. 107-155, § 304(c), added pars. (25) and (26).

2000—Par. (8)(B)(xv). Pub. L. 106-346 added cl. (xv).

1986—Pars. (8)(B)(ix)(II), (9)(A)(vii)(II). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1980—Pub. L. 96-187 changed the section designations from letters to numbers, and as so redesignated, substantially redefined the terms applicable to the provisions of this Act.

1976—Subsec. (a)(2). Pub. L. 94-283, § 102(a), substituted “party which has authority to nominate” for “party held to nominate”.

Subsec. (e)(2). Pub. L. 94-283, § 102(b), substituted “written contract, promise, or agreement,” for “contract, promise, or agreement, expressed or implied,”.

Subsec. (e)(4). Pub. L. 94-283, § 102(c), inserted provisions establishing an exception for legal or accounting services.

Subsec. (e)(5). Pub. L. 94-283, §§ 102(d), (e), 115(d) (1), substituted “section 441b(b) of this title” for “the last paragraph of section 610 of title 18, United States Code” in cl. (F), added cls. (G), (H), and (I), and, in the provisions following cl. (I), substituted “person” for “individual”.

Subsec. (f)(4). Pub. L. 94-283, §§ 102(f), 115(d)(2), inserted provisions in cl. (C) requiring the reporting to the Commission of costs directly attributable to a communication expressly advocating the election or defeat of a clearly identifiable candidate if those costs should exceed \$2,000 per election, substituted “section 441b(b) of this title” for “the last paragraph of section 610 of title 18, United States Code” in cl. (H), and added cls. (I), (J), and (K).

Subsec. (n). Pub. L. 94-283, § 115(h), substituted “section 432(e) (1) of this title” for “section 432(f)(1) of this title”.

Subsec. (o) to (q). Pub. L. 94-283, § 102(g)(3), added subsecs. (o) to (q).

1974—Pub. L. 93-443, § 201(a)(1), inserted introductory reference to title IV of this Act, which for purposes of codification is translated as subchapter II of this chapter.

Subsec. (a)(5). Pub. L. 93-443, § 201(a)(2), struck out from definition of “election” the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States.

Subsec. (d). Pub. L. 93-443, § 201(a)(3), inserted reference to “club,” before “association” and substituted “other group of persons” and “receives” for “organization” and “accepts”.

Subsec. (e). Pub. L. 93-443, § 201(a)(4), transferred the word “means” after introductory word “contribution” to become the initial word in pars. (1) to (4); in par. (1), incorporated existing provisions in provisions designated subpars. (A) and (B), and deleted former provisions respecting contributions for the purpose of influencing the nomination for election, or election, of any person as a presidential election or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States; in par. (2), provided for express or implied transactions; in par. (3), substitution of “funds received by a political committee which are transferred to such committee from another political committee or other source” for “a transfer of funds between political committees”; inserted at end of par. (4) the word “but”; and added par. (5).

Subsec. (f). Pub. L. 93-443, § 201(a)(5), transferred the word “means” following introductory word “expenditure” to become the initial word in pars. (1) to (3); in par. (1), incorporated existing provisions in provisions designated subpars. (A) to (C) and deleted end text reading “, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States”; in par. (2), provided for express or implied transactions; in par. (3), substituted “the transfer of funds by a political committee to another political committee; but” for “a transfer of funds between political committees”; and added par. (4).

Subsec. (g). Pub. L. 93-443, § 208(c)(1), substituted definition of “Commission” for “supervisory officer”.

Subsecs. (j) to (n). Pub. L. 93-443, § 201(a)(6)–(8), added subsecs. (j) to (n).

EFFECTIVE DATE OF 2002 AMENDMENT; REGULATIONS

Pub. L. 107-155, title IV, § 402, Mar. 27, 2002, 116 Stat. 112, provided that:

“(a) GENERAL EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in the succeeding provisions of this section, the effective date of this Act [see Tables for classification], and the amendments made by this Act, is November 6, 2002.

“(2) MODIFICATION OF CONTRIBUTION LIMITS.—The amendments made by—

“(A) section 102 [amending section 30116 of this title] shall apply with respect to contributions made on or after January 1, 2003; and

“(B) section 307 [amending section 30116 of this title] shall take effect as provided in subsection (e) of such section [enacting provisions set out as a note under section 30116 of this title].

“(3) SEVERABILITY; EFFECTIVE DATES AND REGULATIONS; JUDICIAL REVIEW.—Title IV [enacting provisions set out as notes under sections 30110 and 30144 of this title] shall take effect on the date of enactment of this Act [Mar. 27, 2002].

“(4) PROVISIONS NOT TO APPLY TO RUNOFF ELECTIONS.—Section 323(b) of the Federal Election Campaign Act of 1971 [52 U.S.C. 30125(b)] (as added by section 101(a)), section 103(a) [amending section 30104 of this title], title II [amending this section and sections 30104, 30116, and 30118 of this title and enacting provisions set out as notes under sections 30104 and 30116 of this title], sections 304 [amending this section and sections 30104 and 30116 of this title] (including section 315(j) of Federal Election Campaign Act of 1971 [52 U.S.C. 30116(j)]), as added by section 304(a)(2)),

305 [amending section 315 of Title 47, Telecommunications, and enacting provisions set out as a note under section 315 of Title 47] (notwithstanding subsection (c) of such section [enacting provisions set out as a note under section 315 of Title 47]), 311 [amending section 30120 of this title], 316 [amending section 30116 of this title], 318 [enacting section 30126 of this title], and 319 [enacting section 30117 of this title and amending section 30116 of this title], and title V [enacting section 30112 of this title and amending section 30104 of this title and section 315 of Title 47] (and the amendments made by such sections and titles) shall take effect on November 6, 2002, but shall not apply with respect to runoff elections, recounts, or election contests resulting from elections held prior to such date.

“(b) SOFT MONEY OF NATIONAL POLITICAL PARTIES.—

“(1) IN GENERAL.—Except for subsection (b) of such section, section 323 of the Federal Election Campaign Act of 1971 [52 U.S.C. 30125] (as added by section 101(a)) shall take effect on November 6, 2002.

“(2) TRANSITIONAL RULES FOR THE SPENDING OF SOFT MONEY OF NATIONAL POLITICAL PARTIES.—

“(A) IN GENERAL.—Notwithstanding section 323(a) of the Federal Election Campaign Act of 1971 [52 U.S.C. 30125(a)] (as added by section 101(a)), if a national committee of a political party described in such section (including any person who is subject to such section under paragraph (2) of such section), has received funds described in such section prior to November 6, 2002, the rules described in subparagraph (B) shall apply with respect to the spending of the amount of such funds in the possession of such committee as of such date.

“(B) USE OF EXCESS SOFT MONEY FUNDS.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), the national committee of a political party may use the amount described in subparagraph (A) prior to January 1, 2003, solely for the purpose of—

“(I) retiring outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or

“(II) paying expenses or retiring outstanding debts or paying for obligations that were incurred solely in connection with any runoff election, recount, or election contest resulting from an election held prior to November 6, 2002.

“(ii) PROHIBITION ON USING SOFT MONEY FOR HARD MONEY EXPENSES, DEBTS, AND OBLIGATIONS.—A national committee of a political party may not use the amount described in subparagraph (A) for any expenditure (as defined in section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) [now 52 U.S.C. 30101(9)]) or for retiring outstanding debts or obligations that were incurred for such an expenditure.

“(iii) PROHIBITION OF BUILDING FUND USES.—A national committee of a political party may not use the amount described in subparagraph (A) for activities to defray the costs of the construction or purchase of any office building or facility.

“(c) REGULATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Federal Election Commission shall promulgate regulations to carry out this Act [see Tables for classification] and the amendments made by this Act that are under the Commission’s jurisdiction not later than 270 days after the date of enactment of this Act [Mar. 27, 2002].

“(2) SOFT MONEY OF POLITICAL PARTIES.—Not later than 90 days after the date of enactment of this Act, the Federal Election Commission shall promulgate regulations to carry out title I of this Act [enacting section 30125 of this title and amending this section and sections 30104, 30116, and 30143 of this title] and the amendments made by such title.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-346, §101(a) [title V, §502(d)], Oct. 23, 2000, 114 Stat. 1356, 1356A-50, provided that: “The amend-

ments made by this section [amending this section and section 30104 of this title] shall apply with respect to elections occurring after January 2001.”

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-187, title III, §301, Jan. 8, 1980, 93 Stat. 1368, provided that:

“(a) Except as provided in subsection (b), the amendments made by this Act [see Tables for classification] are effective upon enactment [Jan. 8, 1980].

“(b) For authorized committees of candidates for President and Vice President, section 304(b) of the Federal Election Campaign Act of 1971 [section 30104(b) of this title] shall be effective for elections occurring after January 1, 1981.”

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-443, title IV, §410, Oct. 15, 1974, 88 Stat. 1304, provided that:

“(a) Except as provided by subsection (b) and subsection (c), the foregoing provisions of this Act [see Tables for classification] shall become effective January 1, 1975.

“(b) Section 104 [set out as a note under section 591 of Title 18, Crimes and Criminal Procedure] and the amendment made by section 301 [amending section 30143 of this title] shall become effective on the date of the enactment of this Act [Oct. 15, 1974].

“(c)(1) The amendments made by sections 403(a), 404, 405, 406, 408, and 409 [enacting sections 9031 to 9042, amending sections 276, 9002, 9003, 9004, 9005, 9006, 9007, 9008, 9009, 9010, 9011, and 9012, and repealing section 9021 of Title 26, Internal Revenue Code] shall apply with respect to taxable years beginning after December 31, 1974.

“(2) The amendment made by section 407 [amending section 6012 of Title 26] shall apply with respect to taxable years beginning after December 31, 1971.”

EFFECTIVE DATE

Pub. L. 92-225, title IV, §408, formerly §406, Feb. 7, 1972, 86 Stat. 20, as renumbered §408 by Pub. L. 93-443, title III, §302, Oct. 15, 1974, 88 Stat. 1289, provided that: “Except as provided in section 401 of this Act [section 30141 of this title], the provisions of this Act [see Tables for classification] shall become effective on December 31, 1971, or sixty days after the date of enactment of this Act [Feb. 7, 1972], whichever is later.”

TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and functions transferred, see Pub. L. 101-73, title IV, §§401-406, Aug. 9, 1989, 103 Stat. 354-363, set out as a note under section 1437 of Title 12, Banks and Banking.

TRANSITION PROVISIONS

Pub. L. 96-187, title III, §303, Jan. 8, 1980, 93 Stat. 1368, provided that:

“(a) The Federal Election Commission shall transmit to the Congress proposed rules and regulations necessary for the purpose of implementing the provisions of this Act [see Tables for classification], and the amendments made by this Act, prior to February 29, 1980.

“(b) The provisions of section 311(d) of the Federal Election Campaign Act of 1971 [section 30111(d) of this title] allowing disapproval of rules and regulations by either House of Congress within 30 legislative days after receipt shall, with respect to rules and regulations required to be proposed under subsection (a) of this section, be deemed to allow such disapproval within 15 legislative days after receipt.”

STUDY AND REPORT ON CLEAN MONEY CLEAN ELECTIONS LAWS

Pub. L. 107-155, title III, §310, Mar. 27, 2002, 116 Stat. 104, related to a study and report on clean money clean elections laws in Arizona and Maine.

VOTING SYSTEM STUDY; REPORT TO CONGRESS; COST OF STUDY

Pub. L. 96-187, title III, §302, Jan. 8, 1980, 93 Stat. 1368, as amended by Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433, provided that: "The Federal Election Commission with the cooperation and assistance of the National Institute of Standards and Technology, shall conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The Commission shall report to the Congress the results of the study, and such report shall include recommendations, if any, for the implementation of a program of such standards (including estimates of the costs and time requirements of implementing such a program). The cost of the study shall be paid out of any funds otherwise available to defray the expenses of the Commission."

§ 30102. Organization of political committees**(a) Treasurer; vacancy; official authorizations**

Every political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of a political committee without the authorization of the treasurer or his or her designated agent.

(b) Account of contributions; segregated funds

(1) Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50 the name and address of the person making the contribution and the date of receipt.

(2) Every person who receives a contribution for a political committee which is not an authorized committee shall—

(A) if the amount of the contribution is \$50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

(B) if the amount of the contribution is in excess of \$50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution, no later than 10 days after receiving the contribution.

(3) All funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

(c) Recordkeeping

The treasurer of a political committee shall keep an account of—

(1) all contributions received by or on behalf of such political committee;

(2) the name and address of any person who makes any contribution in excess of \$50, together with the date and amount of such contribution by any person;

(3) the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution;

(4) the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and

(5) the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of \$200.

(d) Preservation of records and copies of reports

The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed. For any report filed in electronic format under section 30104(a)(11) of this title, the treasurer shall retain a machine-readable copy of the report as the copy preserved under the preceding sentence.

(e) Principal and additional campaign committees; designations, status of candidate, authorized committees, etc.

(1) Each candidate for Federal office (other than the nominee for the office of Vice President) shall designate in writing a political committee in accordance with paragraph (3) to serve as the principal campaign committee of such candidate. Such designation shall be made no later than 15 days after becoming a candidate. A candidate may designate additional political committees in accordance with paragraph (3) to serve as authorized committees of such candidate. Such designation shall be in writing and filed with the principal campaign committee of such candidate in accordance with subsection (f)(1).

(2) Any candidate described in paragraph (1) who receives a contribution, or any loan for use in connection with the campaign of such candidate for election, or makes a disbursement in connection with such campaign, shall be considered, for purposes of this Act, as having received the contribution or loan, or as having made the disbursement, as the case may be, as an agent of the authorized committee or committees of such candidate.

(3)(A) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that—

(i) the candidate for the office of President nominated by a political party may designate the national committee of such political party as a principal campaign committee, but only if that national committee maintains separate books of account with respect to its function as a principal campaign committee; and

(ii) candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(B) As used in this section, the term "support" does not include a contribution by any authorized committee in amounts of \$2,000 or less to an authorized committee of any other candidate.

(4) The name of each authorized committee shall include the name of the candidate who authorized such committee under paragraph (1). In the case of any political committee which is not an authorized committee, such political com-

Appendix A.2
52 U.S.C. § 30104

§ 30104. Reporting requirements

(a) Receipts and disbursements by treasurers of political committees; filing requirements

(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

(A) in any calendar year during which there is¹ regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by any of the following: registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, or delivered to an overnight delivery service with an on-line tracking system, if posted or delivered no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

(B) in any other calendar year the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year.

(3) If the committee is the principal campaign committee of a candidate for the office of President—

(A) in any calendar year during which a general election is held to fill such office—

(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating \$100,000 or made expenditures aggregating \$100,000 or anticipates receiving contributions aggregating \$100,000 or more or making expenditures aggregating \$100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be com-

plete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of \$100,000 or makes expenditures in excess of \$100,000, the treasurer shall begin filing monthly reports under paragraph (3)(A)(i) at the next reporting period; and

(B) in any other calendar year, the treasurer shall file either—

(i) monthly reports, which shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; or

(ii) quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter and which shall be complete as of the last day of each calendar quarter.

(4) All political committees other than authorized committees of a candidate shall file either—

(A)(i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year;

(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by any of the following: registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, or delivered to an overnight delivery service with an on-line tracking system, if posted or delivered no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;

(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

¹ So in original. Probably should be followed by “a”.

(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B).

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii) or subsection (g)(1)) is sent by registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, the United States postmark shall be considered the date of filing the designation, report or statement. If a designation, report or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii), or subsection (g)(1)) is sent by an overnight delivery service with an on-line tracking system, the date on the proof of delivery to the delivery service shall be considered the date of filing of the designation, report, or statement.

(6)(A) The principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS.—

(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS.—In this subparagraph, the term “expenditure from personal funds” means—

(I) an expenditure made by a candidate using personal funds; and

(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate’s authorized committee.

(ii) DECLARATION OF INTENT.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with—

(I) the Commission; and
(II) each candidate in the same election.

(iii) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate described in clause (ii)

makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with—

(I) the Commission; and
(II) each candidate in the same election.

(iv) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed² \$10,000 with—

(I) the Commission; and
(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

(v) CONTENTS.—A notification under clause (iii) or (iv) shall include—

(I) the name of the candidate and the office sought by the candidate;

(II) the date and amount of each expenditure; and

(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS.—In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate’s authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 30116(i) of this title) and the manner in which the candidate or the candidate’s authorized committee used such funds.

(D) ENFORCEMENT.—For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 30109 of this title.

(E) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

(7) The reports required to be filed by this subsection 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.

(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and political committees filing under paragraph (4)(A)

² So in original. Probably should be “exceeds”.

which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one pre-election report for each election and one post-election report for the election which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such election and shall publish such dates and notify the principal campaign committees of all candidates in such election of the reporting dates.

(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form if not required to do so under the regulation promulgated under clause (i).

(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.

(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(D) As used in this paragraph, the term “report” means, with respect to the Commission, a report, designation, or statement required by this Act to be filed with the Commission.

(12) SOFTWARE FOR FILING OF REPORTS.—

(A) IN GENERAL.—The Commission shall—

(i) promulgate standards to be used by vendors to develop software that—

(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

(III) allows the Commission to post the information on the Internet immediately upon receipt; and

(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

(B) ADDITIONAL INFORMATION.—To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

(C) REQUIRED USE.—Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate’s authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

(D) REQUIRED POSTING.—The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph.

(b) Contents of reports

Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) contributions from persons other than political committees;

(B) for an authorized committee, contributions from the candidate;

(C) contributions from political party committees;

(D) contributions from other political committees;

(E) for an authorized committee, transfers from other authorized committees of the same candidate;

(F) transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

(G) for an authorized committee, loans made by or guaranteed by the candidate;

(H) all other loans;

(I) rebates, refunds, and other offsets to operating expenditures;

(J) dividends, interest, and other forms of receipts; and

(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of title 26;

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), or in any lesser

amount if the reporting committee should so elect, together with the date and amount of any such contribution;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

(C) authorized committee which makes a transfer to the reporting committee;

(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan;

(F) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of such receipt; and

(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of any such receipt;

(4) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all disbursements, and all disbursements in the following categories:

(A) expenditures made to meet candidate or committee operating expenses;

(B) for authorized committees, transfers to other committees authorized by the same candidate;

(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

(E) repayment of all other loans;

(F) contribution refunds and other offsets to contributions;

(G) for an authorized committee, any other disbursements;

(H) for any political committee other than an authorized committee—

(i) contributions made to other political committees;

(ii) loans made by the reporting committees;

(iii) independent expenditures;

(iv) expenditures made under section 30116(d) of this title; and

(v) any other disbursements; and

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 30116(b) of this title;

(5) the name and address of each—

(A) person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

(B) authorized committee to which a transfer is made by the reporting committee;

(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

(D) person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment; and

(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph (3)(A) of this subsection, together with the date and amount of such disbursement;

(6)(A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of any such disbursement;

(B) for any other political committee, the name and address of each—

(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution;

(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by

such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 30116(d) of this title, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditures less offsets to operating expenditures, for both the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office); and

(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor.

(c) Statements by other than political committees; filing; contents; indices of expenditures

(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of \$250 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) for all contributions received by such person.

(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2), and shall include—

(A) the information required by subsection (b)(6)(B)(iii), indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(C) the identification of each person who made a contribution in excess of \$200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent expenditures separately, including those reported under subsection (b)(6)(B)(iii), made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis.

(d) Filing by facsimile device or electronic mail

(1) Any person who is required to file a statement under subsection (c) or (g) of this section, except statements required to be filed electronically pursuant to subsection (a)(11)(A)(i) may file the statement by facsimile device or electronic mail, in accordance with such regulations as the Commission may promulgate.

(2) The Commission shall make a document which is filed electronically with the Commission pursuant to this paragraph accessible to the public on the Internet not later than 24 hours after the document is received by the Commission.

(3) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying the documents covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(e) Political committees

(1) National and congressional political committees

The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

(2) Other political committees to which section 30125 of this title applies

(A) In general

In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 30125(b)(1) of this title applies shall report all receipts and disbursements made for activities described in section 30101(20)(A) of this title, unless the aggregate amount of such receipts and disbursements during the calendar year is less than \$5,000.

(B) Specific disclosure by State and local parties of certain non-Federal amounts permitted to be spent on Federal election activity

Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section 30101(20)(A) of this title shall include a disclosure of all receipts and disbursements described in section 30125(b)(2)(A) and (B) of this title.

(3) Itemization

If a political committee has receipts or disbursements to which this subsection applies

from or to any person aggregating in excess of \$200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

(4) Reporting periods

Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B).

(f) Disclosure of electioneering communications

(1) Statement required

Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of \$10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

(2) Contents of statement

Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

(B) The principal place of business of the person making the disbursement, if not an individual.

(C) The amount of each disbursement of more than \$200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 1101(a)(20) of title 8) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of \$1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of \$1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

(3) Electioneering communication

For purposes of this subsection—

(A) In general

(i) The term “electioneering communication” means any broadcast, cable, or satellite communication which—

(I) refers to a clearly identified candidate for Federal office;

(II) is made within—

(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term “electioneering communication” means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

(B) Exceptions

The term “electioneering communication” does not include—

(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 30101(20)(A)(iii) of this title.

(C) Targeting to relevant electorate

For purposes of this paragraph, a communication which refers to a clearly identified

candidate for Federal office is “targeted to the relevant electorate” if the communication can be received by 50,000 or more persons—

(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

(4) Disclosure date

For purposes of this subsection, the term “disclosure date” means—

(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of \$10,000; and

(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of \$10,000 since the most recent disclosure date for such calendar year.

(5) Contracts to disburse

For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

(6) Coordination with other requirements

Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

(7) Coordination with title 26

Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of title 26.

(g) Time for reporting certain expenditures

(1) Expenditures aggregating \$1,000

(A) Initial report

A person (including a political committee) that makes or contracts to make independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours.

(B) Additional reports

After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$1,000 with respect to the same election as that to which the initial report relates.

(2) Expenditures aggregating \$10,000

(A) Initial report

A person (including a political committee) that makes or contracts to make independent

expenditures aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

(B) Additional reports

After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$10,000 with respect to the same election as that to which the initial report relates.

(3) Place of filing; contents

A report under this subsection—

(A) shall be filed with the Commission; and

(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.

(4) Time of filing for expenditures aggregating \$1,000

Notwithstanding subsection (a)(5), the time at which the statement under paragraph (1) is received by the Commission or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.

(h) Reports from Inaugural Committees

The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36 accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission.

(i) Disclosure of bundled contributions

(1) Required disclosure

Each committee described in paragraph (6) shall include in the first report required to be filed under this section after each covered period (as defined in paragraph (2)) a separate schedule setting forth the name, address, and employer of each person reasonably known by the committee to be a person described in paragraph (7) who provided 2 or more bundled contributions to the committee in an aggregate amount greater than the applicable threshold (as defined in paragraph (3)) during the covered period, and the aggregate amount of the bundled contributions provided by each such person during the covered period.

(2) Covered period

In this subsection, a “covered period” means, with respect to a committee—

(A) the period beginning January 1 and ending June 30 of each year;

(B) the period beginning July 1 and ending December 31 of each year; and

(C) any reporting period applicable to the committee under this section during which any person described in paragraph (7) provided 2 or more bundled contributions to the committee in an aggregate amount greater than the applicable threshold.

(3) Applicable threshold**(A) In general**

In this subsection, the “applicable threshold” is \$15,000, except that in determining whether the amount of bundled contributions provided to a committee by a person described in paragraph (7) exceeds the applicable threshold, there shall be excluded any contribution made to the committee by the person or the person’s spouse.

(B) Indexing

In any calendar year after 2007, section 30116(c)(1)(B) of this title shall apply to the amount applicable under subparagraph (A) in the same manner as such section applies to the limitations established under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h) of such section, except that for purposes of applying such section to the amount applicable under subparagraph (A), the “base period” shall be 2006.

(4) Public availability

The Commission shall ensure that, to the greatest extent practicable—

(A) information required to be disclosed under this subsection is publicly available through the Commission website in a manner that is searchable, sortable, and downloadable; and

(B) the Commission’s public database containing information disclosed under this subsection is linked electronically to the websites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995 [2 U.S.C. 1601 et seq.].

(5) Regulations

Not later than 6 months after September 14, 2007, the Commission shall promulgate regulations to implement this subsection. Under such regulations, the Commission—

(A) may, notwithstanding paragraphs (1) and (2), provide for quarterly filing of the schedule described in paragraph (1) by a committee which files reports under this section more frequently than on a quarterly basis;

(B) shall provide guidance to committees with respect to whether a person is reasonably known by a committee to be a person described in paragraph (7), which shall include a requirement that committees consult the websites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995;

(C) may not exempt the activity of a person described in paragraph (7) from disclosure under this subsection on the grounds that the person is authorized to engage in fundraising for the committee or any other similar grounds; and

(D) shall provide for the broadest possible disclosure of activities described in this subsection by persons described in paragraph (7) that is consistent with this subsection.

(6) Committees described

A committee described in this paragraph is an authorized committee of a candidate, a leadership PAC, or a political party committee.

(7) Persons described

A person described in this paragraph is any person, who, at the time a contribution is forwarded to a committee as described in paragraph (8)(A)(i) or is received by a committee as described in paragraph (8)(A)(ii), is—

(A) a current registrant under section 4(a) of the Lobbying Disclosure Act of 1995 [2 U.S.C. 1603(a)];

(B) an individual who is listed on a current registration filed under section 4(b)(6) of such Act [2 U.S.C. 1603(b)(6)] or a current report under section 5(b)(2)(C) of such Act [2 U.S.C. 1604(b)(2)(C)]; or

(C) a political committee established or controlled by such a registrant or individual.

(8) Definitions

For purposes of this subsection, the following definitions apply:

(A) Bundled contribution

The term “bundled contribution” means, with respect to a committee described in paragraph (6) and a person described in paragraph (7), a contribution (subject to the applicable threshold) which is—

(i) forwarded from the contributor or contributors to the committee by the person; or

(ii) received by the committee from a contributor or contributors, but credited by the committee or candidate involved (or, in the case of a leadership PAC, by the individual referred to in subparagraph (B) involved) to the person through records, designations, or other means of recognizing that a certain amount of money has been raised by the person.

(B) Leadership PAC

The term “leadership PAC” means, with respect to a candidate for election to Federal office or an individual holding Federal office, a political committee that is directly or indirectly established, financed, maintained or controlled by the candidate or the individual but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee of the candidate or individual, except that such term does not include a political committee of a political party.

(Pub. L. 92-225, title III, §304, Feb. 7, 1972, 86 Stat. 14; Pub. L. 93-443, title II, §§204(a)-(d), 208(c)(4), Oct. 15, 1974, 88 Stat. 1276-1278, 1286; Pub. L. 94-283, title I, §104, May 11, 1976, 90 Stat. 480; Pub. L. 96-187, title I, §104, Jan. 8, 1980, 93 Stat. 1348; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 104-79, §1(a), 3(b), Dec. 28, 1995, 109 Stat. 791, 792; Pub. L. 106-58, title VI, §§639(a), 641(a), Sept. 29, 1999, 113 Stat. 476, 477; Pub. L. 106-346, §101(a) [title V, §502(a), (c)], Oct. 23, 2000, 114 Stat. 1356, 1356A-49; Pub. L. 107-155, title I, §103(a), title II, §§201(a), 212, title III,

§§ 304(b), 306, 308(b), title V, §§ 501, 503, Mar. 27, 2002, 116 Stat. 87, 88, 93, 99, 102, 104, 114, 115; Pub. L. 108–199, div. F, title VI, § 641, Jan. 23, 2004, 118 Stat. 359; Pub. L. 110–81, title II, § 204(a), Sept. 14, 2007, 121 Stat. 744.)

REFERENCES IN TEXT

This Act, referred to in text, means the Federal Election Campaign Act of 1971, as defined by section 30101 of this title.

The Lobbying Disclosure Act of 1995, referred to in subsec. (i)(4)(B), (5)(B), is Pub. L. 104–65, Dec. 19, 1995, 109 Stat. 691, which is classified principally to chapter 26 (§ 1601 et seq.) of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 2 and Tables.

CODIFICATION

Section was formerly classified to section 434 of Title 2, The Congress, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2007—Subsec. (i). Pub. L. 110–81 added subsec. (i).

2004—Subsec. (a)(2)(A)(i), (4)(A)(ii). Pub. L. 108–199, § 641(1), substituted “(or posted by any of the following: registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, or delivered to an overnight delivery service with an on-line tracking system, if posted or delivered no later than the 15th day before)” for “(or posted by registered or certified mail no later than the 15th day before)”.

Subsec. (a)(5). Pub. L. 108–199, § 641(2), added par. (5) and struck out former par. (5) which read as follows: “If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii), or subsection (g)(1) of this section) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.”

2002—Subsec. (a)(2)(B). Pub. L. 107–155, § 503(a), substituted “the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year.” for “the following reports shall be filed:

“(i) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

“(ii) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.”

Subsec. (a)(4). Pub. L. 107–155, § 503(b), inserted concluding provisions.

Subsec. (a)(5). Pub. L. 107–155, § 212(b)(2)(A), substituted “subsection (g)(1)” for “the second sentence of subsection (c)(2) of this section”.

Subsec. (a)(6)(B) to (E). Pub. L. 107–155, § 304(b), added subpars. (B) to (D) and redesignated former subpar. (B) as (E).

Subsec. (a)(11)(B). Pub. L. 107–155, § 501, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.”

Subsec. (a)(12). Pub. L. 107–155, § 306, added par. (12).

Subsec. (c)(2). Pub. L. 107–155, § 212(a)(1), struck out concluding provisions which read as follows: “Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating \$1,000 or more made after the 20th day, but more than 24

hours, before any election shall be filed within 24 hours after such independent expenditure is made. Such statement shall be filed with the Secretary or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) of this section indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved. Notwithstanding subsection (a)(5) of this section, the time at which the statement under this subsection is received by the Secretary, the Commission, or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.”

Subsec. (d)(1). Pub. L. 107–155, § 212(b)(2)(B), inserted “or (g)” after “subsection (c)”.

Subsec. (e). Pub. L. 107–155, § 103(a), added subsec. (e).

Subsec. (f). Pub. L. 107–155, § 201(a), added subsec. (f).

Subsec. (g). Pub. L. 107–155, § 212(a)(2), added subsec. (g).

Subsec. (g)(4). Pub. L. 107–155, § 212(b)(1), added par. (4).

Subsec. (h). Pub. L. 107–155, § 308(b), added subsec. (h).

2000—Subsec. (a)(5). Pub. L. 106–346, § 101(a) [title V, § 502(c)(2)], substituted “or (4)(A)(ii), or the second sentence of subsection (c)(2)” for “or (4)(A)(ii)”.

Subsec. (c)(2). Pub. L. 106–346, § 101(a) [title V, § 502(c)(1)], in concluding provisions, substituted “shall be filed within” for “shall be reported within” and inserted at end “Notwithstanding subsection (a)(5) of this section, the time at which the statement under this subsection is received by the Secretary, the Commission, or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.”

Subsec. (d). Pub. L. 106–346, § 101(a) [title V, § 502(a)], added subsec. (d).

1999—Subsec. (a)(11). Pub. L. 106–58, § 639(a), added par. (11) and struck out former par. (11) which read as follows:

“(11)(A) The Commission shall permit reports required by this Act to be filed and preserved by means of computer disk or any other appropriate electronic format or method, as determined by the Commission.

“(B) In carrying out subparagraph (A) with respect to filing of reports, the Commission shall provide for one or more methods (other than requiring a signature on the report being filed) for verifying reports filed by means of computer disk or other electronic format or method. Any verification under the preceding sentence shall be treated for all purposes (including penalties for perjury) in the same manner as a verification by signature.

“(C) As used in this paragraph, the term ‘report’ means, with respect to the Commission, a report, designation, or statement required by this Act to be filed with the Commission.”

Subsec. (b)(2) to (4), (6), (7). Pub. L. 106–58, § 641(a), which directed insertion of “(or election cycle, in the case of an authorized committee of a candidate for Federal office)” after “calendar year” wherever appearing in pars. (2)–(4), (6), (7) of section 304(b) of the Federal Election Campaign Act, was executed by making the insertions in this section, which is section 304(b) of the Federal Election Campaign Act of 1971, to reflect the probable intent of Congress.

1995—Subsec. (a)(6)(A). Pub. L. 104–79, § 3(b)(1), substituted “notify the Secretary” for “notify the Clerk, the Secretary,” in first sentence.

Subsec. (a)(11). Pub. L. 104–79, § 1(a), added par. (11).

Subsec. (c)(2). Pub. L. 104–79, § 3(b)(2), substituted “filed with the Secretary” for “filed with the Clerk, the Secretary,” in last sentence.

1986—Subsec. (b)(2)(K). Pub. L. 99–514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1980—Pub. L. 96–187 completely revised this section by changing the reporting requirements of candidates and committees so as to substantially reduce the maxi-

imum number of reports to be filed while maintaining full and adequate disclosure of campaign activities.

1976—Subsec. (a)(1)(C). Pub. L. 94-283, §104(a), inserted provisions covering reports which must be filed in any year in which a candidate is not on the ballot for election to Federal office.

Subsec. (a)(2). Pub. L. 94-283, §104(b), substituted “committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate’s principal campaign committee, shall file the reports required under this section with the candidate’s principal campaign committee” for “committee which is not a principal campaign committee shall file the reports required under this section with the appropriate principal campaign committee”.

Subsec. (b). Pub. L. 94-283, §104(c), added par. (13), redesignated former par. (13) as (14), and provided that committee treasurers and candidates be deemed to be in compliance with this subsection when they show that best efforts have been used to obtain and submit the information required by this subsection.

Subsec. (e). Pub. L. 94-283, §104(d), designated existing provisions as par. (1), substituted “independent expenditures expressly advocating the election or defeat of a clearly identifiable candidate” for “expenditures”, “\$100 during a calendar year” for “\$100 within a calendar year”, and “, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of \$100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution” for “a statement containing the information required by this section. Statements required by this subsection shall be filed on the dates on which reports by political committees are filed but need not be cumulative”, and added pars. (2) and (3).

1974—Subsec. (a)(1). Pub. L. 93-443, §§204(a)(1), (2), 208(c)(4)(A), substituted provisions of cls. (A) to (D) respecting filing of reports and that “Any contribution of \$1,000 or more received after the fifteenth day, but more than 48 hours, before any election shall be reported within 48 hours after its receipt.” for prior requirement that “Such reports shall be filed on the tenth day of March, June, and September, in each year, and on the fifteenth and fifth days next preceding the date on which an election is held, and also by the thirty-first day of January. Such reports shall be complete as of such date as the supervisory officer may prescribe, which shall not be less than five days before the date of filing, except that any contribution of \$5,000 or more received after the last report is filed prior to the election shall be reported within forty-eight hours after its receipt.”; designated existing provisions as par. (1), inserting introductory text “Except as provided by paragraph (2),”; and substituted “Commission” and “it” for “appropriate supervisory officer” and “him” in first sentence, respectively.

Subsec. (a)(2), (3). Pub. L. 93-443, §204(a)(2), added pars. (2) and (3).

Subsec. (b)(5). Pub. L. 93-443, §204(b)(1), required information respecting guarantors.

Subsec. (b)(8). Pub. L. 93-443, §204(b)(2), required the report to disclose the total receipts less transfers between political committees which support the same candidate and which do not support more than one candidate.

Subsec. (b)(9), (10). Pub. L. 93-443, §204(b)(3), substituted “identification” for “full name and mailing address (occupation and the principal place of business, if any)” in pars. (9) and (10).

Subsec. (b)(11). Pub. L. 93-443, §204(b)(4), required the report to disclose the total expenditures less transfers between political committees which support the same candidate and which do not support more than one candidate.

Subsec. (b)(12). Pub. L. 93-443, §§204(b)(5), 208(c)(4)(B), required the report to include a statement as to the circumstances and conditions under which any debt or obligation is extinguished and the consideration therefor

and substituted “Commission” for “supervisory officer”.

Subsec. (b)(13). Pub. L. 93-443, §208(c)(4)(B), substituted “Commission” for “supervisory officer”.

Subsecs. (d), (e). Pub. L. 93-443, §204(c), added subsec. (d) and incorporated provisions of former section 435 of this title in provisions designated as subsec. (e), substituting “Commission” for “supervisory officer” therein.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-81, title II, §204(b), Sept. 14, 2007, 121 Stat. 746, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to reports filed under section 304 of the Federal Election Campaign Act [52 U.S.C. 30104] after the expiration of the 3-month period which begins on the date that the regulations required to be promulgated by the Federal Election Commission under section 304(i)(5) of such Act (as added by subsection (a)) become final.”

Pub. L. 110-81, title II, §215, Sept. 14, 2007, 121 Stat. 751, provided that: “Except as otherwise provided in sections 203, 204, 206, 211, 212, and 213, the amendments made by this title [see Tables for classification] shall apply with respect to registrations under the Lobbying Disclosure Act of 1995 [2 U.S.C. 1601 et seq.] having an effective date of January 1, 2008, or later and with respect to quarterly reports under that Act covering calendar quarters beginning on or after January 1, 2008.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-155 effective Nov. 6, 2002, except that amendment by sections 103(a), 201(a), 212, 304(b), 501, and 503 of Pub. L. 107-155 not applicable with respect to runoff elections, recounts, or election contests resulting from elections held prior to Nov. 6, 2002, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-346 applicable with respect to elections occurring after January 2001, see section 101(a) [title V, §502(d)] of Pub. L. 106-346, set out as a note under section 30101 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-58, title VI, §639(b), Sept. 29, 1999, 113 Stat. 476, provided that: “The amendments made by this section [amending this section] shall be effective for reporting periods beginning after December 31, 2000.”

Pub. L. 106-58, title VI, §641(b), Sept. 29, 1999, 113 Stat. 477, provided that: “The amendment made by this section [amending this section] shall become effective with respect to reporting periods beginning after December 31, 2000.”

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by section 1(a) of Pub. L. 104-79 applicable with respect to reports for periods beginning after Dec. 31, 1996, see section 1(c) of Pub. L. 104-79, set out as a note under section 30102 of this title.

Amendment by section 3(b) of Pub. L. 104-79 applicable with respect to reports, designations, and statements required to be filed after Dec. 31, 1995, see section 3(d) of Pub. L. 104-79, set out as a note under section 30102 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, with subsec. (b) of this section applicable to authorized committees for President and Vice President in elections occurring after Jan. 1, 1981, see section 301 of Pub. L. 96-187, set out as a note under section 30101 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 30101 of this title.

RESPONSIBILITIES OF FEDERAL COMMUNICATIONS
COMMISSION

Pub. L. 107–155, title II, § 201(b), Mar. 27, 2002, 116 Stat. 90, provided that: “The Federal Communications Commission shall compile and maintain any information the Federal Election Commission may require to carry out section 304(f) of the Federal Election Campaign Act of 1971 [52 U.S.C. 30104(f)] (as added by subsection (a)), and shall make such information available to the public on the Federal Communication Commission’s website.”

REPORT REQUIRED TO BE FILED BY JANUARY 31, 1975

Pub. L. 93–443, title II, § 204(e), Oct. 15, 1974, 88 Stat. 1278, provided that notwithstanding the amendment to this section as to the time to file reports, nothing in Pub. L. 93–443 [see Tables for classification] is to be construed as waiving the report required to be filed by Jan. 31, 1975 under the provisions of this section as in effect on Oct. 15, 1974, the date of enactment of Pub. L. 93–443.

§ 30105. Reports on convention financing

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 60 days following the end of the convention (but not later than 20 days prior to the date on which presidential and vice-presidential electors are chosen), file with the 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 purpose for which such funds were expended.

(Pub. L. 92–225, title III, § 305, formerly § 307, Feb. 7, 1972, 86 Stat. 16; Pub. L. 93–443, title II, § 208(c)(6), Oct. 15, 1974, 88 Stat. 1286; renumbered § 305 and amended Pub. L. 96–187, title I, §§ 105(2), 112(a), Jan. 8, 1980, 93 Stat. 1354, 1366.)

CODIFICATION

Section was formerly classified to section 437 of Title 2, The Congress, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 305 of Pub. L. 92–225 was classified to section 435 of Title 2, The Congress, prior to repeal by Pub. L. 96–187.

AMENDMENTS

1980—Pub. L. 96–187 substituted “60” and “20” for “sixty” and “twenty”, respectively, and struck out “Federal Election” before “Commission”.

1974—Pub. L. 93–443 substituted “Federal Election Commission” and “it” for “Comptroller General of the United States” and “he”, respectively.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96–187, set out as a note under section 30101 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93–443, set out as a note under section 30101 of this title.

§ 30106. Federal Election Commission

(a) Establishment; membership; term of office; vacancies; qualifications; compensation; chairman and vice chairman

(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate. No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.

(2)(A) Members of the Commission shall serve for a single term of 6 years, except that of the members first appointed—

(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

(B) A member of the Commission may serve on the Commission after the expiration of his or her term until his or her successor has taken office as a member of the Commission.

(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

(3) Members shall be chosen on the basis of their experience, integrity, impartiality, and good judgment and members (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Federal Government. Such members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time of his or her appointment to the Commission shall terminate or liquidate such activity no later than 90 days after such appointment.

(4) Members of the Commission (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule (5 U.S.C. 5315).

(5) The Commission shall elect a chairman and a vice chairman from among its members (other than the Secretary of the Senate and the Clerk of the House of Representatives) for a term of one year. A member may serve as chairman only once during any term of office to which such member is appointed. The chairman and the vice chairman shall not be affiliated with the same political party. The vice chairman shall act as chairman in the absence or disability of the

Appendix A.3
52 U.S.C. § 30109

Subsec. (b). Pub. L. 96-187, §107, struck out the par. (1) and (2) designations and substituted provisions requiring any rule of law not stated in this Act or chapter 95 or 96 of title 26 be initially proposed as a rule or regulation pursuant to the procedures of section 438(d) of this title, and provisions prohibiting issuance of an advisory opinion except in accordance with the provisions of this section for provisions holding any person relying upon an advisory opinion free from any sanction provided by this Act or chapter 95 or 96 of title 26, and provisions allowing reliance on an advisory opinion by any person involved in the specific transaction and any person involved in a transaction indistinguishable from the transaction with respect to which such opinion was rendered.

Subsec. (c). Pub. L. 96-187, §107, redesignated existing provisions as par. (1), substituted provisions allowing reliance on any advisory opinion by any person involved in the specific transaction or activity to which such opinion was rendered and any person involved in a transaction or activity indistinguishable from the transaction with respect to which such opinion was rendered for provisions mandating that any request for an advisory opinion be made public and allowing any interested party to transmit written comments to the Commission prior to the rendering of its opinion, and added par. (2).

Subsec. (d). Pub. L. 96-187, §107, added subsec. (d).
 1976—Subsec. (a). Pub. L. 94-283, §108(a), added national committees of political parties to the enumeration of persons and political bodies authorized to request advisory opinions, substituted the application of general rules of law as stated in the Act or in chapter 95 or 96 of title 26 or as prescribed by rules or regulations of the Commission to specific factual situations for the resolution of the question of whether or not any specific transaction or activity by an individual, candidate, or political committee would constitute a violation of the Act as the subject matter of advisory opinions, and inserted requirement that rules or regulations forming the basis for rules of law be rules or regulations proposed pursuant to section 438(c) of this title and that advisory opinions be issued only in accordance with the provisions of this section.

Subsec. (b). Pub. L. 94-283, §108(a), designated existing provisions as par. (1), substituted provisions that any person who relies upon any finding or provision of an advisory opinion in accordance with the provisions of paragraph (2) and who acts in good faith in accordance with the provisions and findings of the advisory opinion shall not, as a result of that act, be subject to any sanctions provided by the Act or by chapter 95 or 96 of title 26 for provisions that any person with respect to whom an advisory opinion was rendered under subsection (a) who acted in good faith in accordance with the provisions and findings of an advisory opinion would be presumed to be in compliance with the Act, and added par. (2).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as a note under section 30101 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of this title.

CONFORMANCE OF ADVISORY OPINIONS ISSUED PRIOR TO MAY 11, 1976, TO REQUIREMENTS IMPOSED UNDER 1976 AMENDMENTS

Pub. L. 94-283, title I, §108(b), May 11, 1976, 90 Stat. 482, provided that: “The Commission shall, no later than 90 days after the date of the enactment of this Act [May 11, 1976], conform the advisory opinions issued before such date of enactment to the requirements established by section 312(a) of the Act [subsec. (a) of this section], as amended by subsection (a) of this section.

The provisions of section 312(b) of the Act [subsec. (b) of this section], as amended by subsection (a) of this section, shall apply with respect to all advisory opinions issued before the date of the enactment of this Act as conformed to meet the requirements of section 312(a) of the Act, as amended by subsection (a) of this section.”

§ 30109. Enforcement

(a) Administrative and judicial practice and procedure

(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of title 26 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of title 26, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

(4)(A)(i) Except as provided in clauses¹ (ii) and subparagraph (C), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a vio-

¹ So in original. Probably should be “clause”.

lation of this Act or of chapter 95 or chapter 96 of title 26, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).

(B)(i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission under subparagraph (A) may be made public by the Commission without the written consent of the respondent and the Commission.

(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of title 26, the Commission shall make public such determination.

(C)(i) Notwithstanding subparagraph (A), in the case of a violation of a qualified disclosure requirement, the Commission may—

(I) find that a person committed such a violation on the basis of information obtained pursuant to the procedures described in paragraphs (1) and (2); and

(II) based on such finding, require the person to pay a civil money penalty in an amount determined, for violations of each qualified disclosure requirement, under a schedule of penalties which is established and published by the Commission and which takes into account the amount of the violation involved, the existence of previous violations by the person, and such other factors as the Commission considers appropriate.

(ii) The Commission may not make any determination adverse to a person under clause (i) until the person has been given written notice and an opportunity to be heard before the Commission.

(iii) Any person against whom an adverse determination is made under this subparagraph may obtain a review of such determination in the district court of the United States for the district in which the person resides, or transacts business, by filing in such court (prior to the expiration of the 30-day period which begins on the date the person receives notification of the determination) a written petition requesting that the determination be modified or set aside.

(iv) In this subparagraph, the term “qualified disclosure requirement” means any requirement of—

(I) subsections² (a), (c), (e), (f), (g), or (i) of section 30104 of this title; or

(II) section 30105 of this title.

(v) This subparagraph shall apply with respect to violations that relate to reporting periods that begin on or after January 1, 2000, and that end on or before December 31, 2018.

(5)(A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation.

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation (or, in the case of a violation of section 30122 of this title, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of \$50,000 or 1,000 percent of the amount involved in the violation).

(C) If the Commission by an affirmative vote of 4 of its members, determines that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d), or a knowing and willful violation of chapter 95 or chapter 96 of title 26, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

(6)(A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of title 26, by the methods specified in paragraph (4), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation) 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.

² So in original. Probably should be “subsection”.

(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of title 26.

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26, the court may impose a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation (or, in the case of a violation of section 30122 of this title, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of \$50,000 or 1,000 percent of the amount involved in the violation).

(7) In any action brought under paragraph (5) or (6), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

(8)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a complaint by the Commission, within 60 days after the date of the dismissal.

(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(10) Repealed. Pub. L. 98-620, title IV, § 402(1)(A), Nov. 8, 1984, 98 Stat. 3357.

(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

(12)(A) Any notification or investigation made under this section shall not be made public by

the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than \$2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than \$5,000.

(b) Notice to persons not filing required reports prior to institution of enforcement action; publication of identity of persons and unfilled reports

Before taking any action under subsection (a) against any person who has failed to file a report required under section 30104(a)(2)(A)(iii) of this title for the calendar quarter immediately preceding the election involved, or in accordance with section 30104(a)(2)(A)(i) of this title, the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 30111(a)(7) of this title, publish before the election the name of the person and the report or reports such person has failed to file.

(c) Reports by Attorney General of apparent violations

Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the Commission any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

(d) Penalties; defenses; mitigation of offenses

(1)(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure—

(i) aggregating \$25,000 or more during a calendar year shall be fined under title 18, or imprisoned for not more than 5 years, or both; or

(ii) aggregating \$2,000 or more (but less than \$25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both.

(B) In the case of a knowing and willful violation of section 30118(b)(3) of this title, the penalties set forth in this subsection shall apply to a violation involving an amount aggregating \$250 or more during a calendar year. Such violation of section 30118(b)(3) of this title may incorporate a violation of section 30119(b), 30122, or 30123 of this title.

(C) In the case of a knowing and willful violation of section 30124 of this title, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of \$1,000 or more is involved.

(D) Any person who knowingly and willfully commits a violation of section 30122 of this title

involving an amount aggregating more than \$10,000 during a calendar year shall be—

(i) imprisoned for not more than 2 years if the amount is less than \$25,000 (and subject to imprisonment under subparagraph (A) if the amount is \$25,000 or more);

(ii) fined not less than 300 percent of the amount involved in the violation and not more than the greater of—

(I) \$50,000; or

(II) 1,000 percent of the amount involved in the violation; or

(iii) both imprisoned under clause (i) and fined under clause (ii).

(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of title 26, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a)(4)(A) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

(3) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of title 26, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under subparagraph (a)(4)(A);

(B) the conciliation agreement is in effect; and

(C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.

(Pub. L. 92-225, title III, § 309, formerly § 314, as added Pub. L. 93-443, title II, § 208(a), Oct. 15, 1974, 88 Stat. 1284; renumbered § 313 and amended Pub. L. 94-283, title I, §§ 105, 109, May 11, 1976, 90 Stat. 481, 483; renumbered § 309 and amended Pub. L. 96-187, title I, §§ 105(4), 108, Jan. 8, 1980, 93 Stat. 1354, 1358; Pub. L. 98-620, title IV, § 402(1)(A), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 106-58, title VI, § 640(a), (b), Sept. 29, 1999, 113 Stat. 476, 477; Pub. L. 107-155, title III, §§ 312(a), 315(a), (b), Mar. 27, 2002, 116 Stat. 106, 108; Pub. L. 110-433, § 1(a), Oct. 16, 2008, 122 Stat. 4971; Pub. L. 113-72, §§ 1, 2, Dec. 26, 2013, 127 Stat. 1210.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (d), means the Federal Election Campaign Act of 1971, as defined by section 30101 of this title.

CODIFICATION

Section was formerly classified to section 437g of Title 2, The Congress, prior to editorial reclassification and renumbering as this section. Some section numbers referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification to this title.

PRIOR PROVISIONS

A prior section 309 of Pub. L. 92-225 was renumbered section 306, and is classified to section 30106 of this title.

Another prior section 309 of Pub. L. 92-225 was renumbered section 308, and was classified to section 437b of Title 2, The Congress, prior to repeal by Pub. L. 96-187.

Another prior section 309 of Pub. L. 92-225 was renumbered section 312, and is classified to section 30113 of this title.

AMENDMENTS

2013—Subsec. (a)(4)(C)(i). Pub. L. 113-72, § 2(a), substituted “a qualified disclosure requirement” for “any requirement of section 434(a) of this title” in introductory provisions.

Subsec. (a)(4)(C)(i)(II). Pub. L. 113-72, § 2(b), inserted “, for violations of each qualified disclosure requirement,” before “under a schedule of penalties”.

Subsec. (a)(4)(C)(iv). Pub. L. 113-72, § 2(c)(2), added cl. (iv). Former cl. (iv) redesignated (v).

Pub. L. 113-72, § 1, substituted “December 31, 2018” for “December 31, 2013”.

Subsec. (a)(4)(C)(v). Pub. L. 113-72, § 2(c)(1), redesignated cl. (iv) as (v).

2008—Subsec. (a)(4)(C)(iv). Pub. L. 110-433 added cl. (iv).

2002—Subsec. (a)(5)(B). Pub. L. 107-155, § 315(a)(1), inserted before period at end “(or, in the case of a violation of section 441f of this title, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of \$50,000 or 1,000 percent of the amount involved in the violation)”.

Subsec. (a)(6)(C). Pub. L. 107-155, § 315(a)(2), inserted before period at end “(or, in the case of a violation of section 441f of this title, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of \$50,000 or 1,000 percent of the amount involved in the violation)”.

Subsec. (d)(1)(A). Pub. L. 107-155, § 312(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating \$2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both. The amount of this fine shall not exceed the greater of \$25,000 or 300 percent of any contribution or expenditure involved in such violation.”

Subsec. (d)(1)(D). Pub. L. 107-155, § 315(b), added subpar. (D).

1999—Subsec. (a)(4)(A)(i). Pub. L. 106-58, § 640(a)(1), substituted “clauses (ii) and subparagraph (C)” for “clause (ii)”.

Subsec. (a)(4)(C). Pub. L. 106-58, § 640(a)(2), added subpar. (C).

Subsec. (a)(6)(A). Pub. L. 106-58, § 640(b), substituted “paragraph (4)” for “paragraph (4)(A)”.

1986—Subsecs. (a)(1), (2), (4)(A)(i), (B)(ii), (5)(A) to (C), (6), (d)(2), (3). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1984—Subsec. (a)(10). Pub. L. 98-620 struck out par. (10) which provided that any action brought under subsec. (a) be advanced on the docket of the court in which filed and put ahead of all other actions (other than other actions brought under this subsec. or under section 437h of this title).

1980—Pub. L. 96-187, § 108, substantially revised provisions of this section in order to facilitate the Commission's more expeditious handling of complaints, and implementation of enforcement proceedings.

1976—Subsec. (a). Pub. L. 94-283, § 109, generally revised provisions of subsec. (a) to reflect enactment of sections 441a to 441j of this title and repeal of sections 608 and 610 to 617 of title 18 and to update the operations of the Commission.

Subsecs. (b), (c). Pub. L. 94-283, §109, reenacted subsec. (b) without change and added subsec. (c).

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113-72, §3, Dec. 26, 2013, 127 Stat. 1211, provided that: “The amendments made by this Act [amending this section] shall take effect on the earlier of—

“(1) December 31, 2013; or

“(2) the date of the enactment of this Act [Dec. 26, 2013].”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-433, §1(c), Oct. 16, 2008, 122 Stat. 4971, provided that: “The amendments made by this section [amending this section and repealing provisions set out as a note below] shall take effect as if included in the enactment of the Treasury and General Government Appropriations Act, 2000 [Pub. L. 106-58].”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-155, title III, §312(b), Mar. 27, 2002, 116 Stat. 106, provided that: “The amendment made by this section [amending this section] shall apply to violations occurring on or after the effective date of this Act [for general effective date of Pub. L. 107-155, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of this title].”

Pub. L. 107-155, title III, §315(c), Mar. 27, 2002, 116 Stat. 108, provided that: “The amendments made by this section [amending this section] shall apply with respect to violations occurring on or after the effective date of this Act [for general effective date of Pub. L. 107-155, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of this title].”

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-58, title VI, §640(c), Sept. 29, 1999, 113 Stat. 477, as amended by Pub. L. 107-67, title VI, §642, Nov. 12, 2001, 115 Stat. 555; Pub. L. 108-199, div. F, title VI, §639, Jan. 23, 2004, 118 Stat. 359; Pub. L. 109-115, div. A, title VII, §721, Nov. 30, 2005, 119 Stat. 2493, which provided that the amendments made by section 640 of Pub. L. 106-58, amending this section, were applicable to violations relating to reporting periods beginning on or after Jan. 1, 2000, and ending on or before Dec. 31, 2008, was repealed by Pub. L. 110-433, §1(b), Oct. 16, 2008, 122 Stat. 4971.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as a note under section 30101 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of this title.

§ 30110. Judicial review

The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act. The district court immediately shall certify all questions of constitu-

tionality of this Act to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(Pub. L. 92-225, title III, §310, formerly §315, as added Pub. L. 93-443, title II, §208(a), Oct. 15, 1974, 88 Stat. 1285; renumbered §314 and amended Pub. L. 94-283, title I, §§105, 115(e), May 11, 1976, 90 Stat. 481, 496; renumbered §310 and amended Pub. L. 96-187, title I, §§105(4), 112(c), Jan. 8, 1980, 93 Stat. 1354, 1366; Pub. L. 98-620, title IV, §402(1)(B), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 100-352, §6(a), June 27, 1988, 102 Stat. 663.)

REFERENCES IN TEXT

This Act, referred to in text, means the Federal Election Campaign Act of 1971, as defined by section 30101 of this title.

CODIFICATION

Section was formerly classified to section 437h of Title 2, The Congress, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 310 of Pub. L. 92-225 was renumbered section 307, and is classified to section 30107 of this title.

Another prior section 310 of Pub. L. 92-225 was renumbered section 306, and is classified to section 30106 of this title.

Another prior section 310 of Pub. L. 92-225 was classified to section 440 of Title 2, The Congress, prior to repeal by Pub. L. 93-443.

AMENDMENTS

1988—Pub. L. 100-352 struck out “(a)” before “The Commission” and struck out subsec. (b) which read as follows: “Notwithstanding any other provision of law, any decision on a matter certified under subsection (a) of this section shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the court of appeals.”

1984—Subsec. (c). Pub. L. 98-620 struck out subsec. (c) which provided for advancement on appellate docket and expedited disposition of any matter certified under subsec. (a) of this section.

1980—Subsec. (a). Pub. L. 96-187, §112(c), struck out “of the United States” after “office of President”.

1976—Subsec. (a). Pub. L. 94-283, §115(e), struck out references to sections 608, 610, 611, 613, 614, 615, 616, and 617 of title 18.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as a note under section 30101 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of this title.

Appendix A.4
52 U.S.C. § 30116

CODIFICATION

Section was formerly classified to section 439a of Title 2, The Congress, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 313 of Pub. L. 92-225 was classified to section 439a of Title 2, The Congress, and also related to use of contributed amounts for certain purposes, prior to repeal by Pub. L. 107-155, title III, §301, Mar. 27, 2002, 116 Stat. 95.

Another prior section 313 of Pub. L. 92-225 was renumbered section 309, and is classified to section 30109 of this title.

Another prior section 313 of Pub. L. 92-225 was renumbered section 308, and is classified to section 30108 of this title.

AMENDMENTS

2007—Subsec. (c). Pub. L. 110-81 added subsec. (c).

2004—Subsec. (a)(5), (6). Pub. L. 108-447, which directed the amendment of section 312a(a) of the Federal Election Campaign Act of 1971 by adding pars. (5) and (6), was executed by making the amendments to this section, which is section 313 of the Federal Election Campaign Act of 1971, to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-81, title VI, §601(b), Sept. 14, 2007, 121 Stat. 775, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to flights taken on or after the date of the enactment of this Act [Sept. 14, 2007].”

EFFECTIVE DATE

Section effective Nov. 6, 2002, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of this title.

§ 30115. Authorization of appropriations

There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of title 26, not to exceed \$5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission \$6,000,000 for the fiscal year ending June 30, 1976, \$1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, \$6,000,000 for the fiscal year ending September 30, 1977, \$7,811,500 for the fiscal year ending September 30, 1978, and \$9,400,000 (of which not more than \$400,000 are authorized to be appropriated for the national clearinghouse function described in section 30111(a)(10)¹ of this title) for the fiscal year ending September 30, 1981.

(Pub. L. 92-225, title III, §314, formerly §320, as added Pub. L. 93-443, title II, §210, Oct. 15, 1974, 88 Stat. 1289; renumbered §319 and amended Pub. L. 94-283, title I, §§105, 113, May 11, 1976, 90 Stat. 481, 495; Pub. L. 95-127, Oct. 12, 1977, 91 Stat. 1110; renumbered §314, Pub. L. 96-187, title I, §105(5), Jan. 8, 1980, 93 Stat. 1354; Pub. L. 96-253, May 29, 1980, 94 Stat. 398; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

This Act, referred to in text, means the Federal Election Campaign Act of 1971, as defined by section 30101 of this title.

¹ See References in Text note below.

Section 30111(a)(10) of this title, referred to in text, was repealed by Pub. L. 107-252, title VIII, §801(b)(3), Oct. 29, 2002, 116 Stat. 1726.

CODIFICATION

Section was formerly classified to section 439c of Title 2, The Congress, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 314 of Pub. L. 92-225 was renumbered section 310, and is classified to section 30110 of this title.

Another prior section 314 of Pub. L. 92-225 was renumbered section 309, and is classified to section 30109 of this title.

AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1980—Pub. L. 96-253 inserted provisions authorizing appropriations of \$9,400,000 for fiscal year ending Sept. 30, 1981.

1977—Pub. L. 95-127 inserted provisions authorizing appropriations of \$7,811,500 for fiscal year ending Sept. 30, 1978.

1976—Pub. L. 94-283, §113, inserted provisions authorizing appropriations through fiscal year ending Sept. 30, 1977.

EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 30101 of this title.

§ 30116. Limitations on contributions and expenditures

(a) Dollar limits on contributions

(1) Except as provided in subsection (i) and section 30117 of this title, no person shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$2,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed \$25,000, or, in the case of contributions made to any of the accounts described in paragraph (9), exceed 300 percent of the amount otherwise applicable under this subparagraph with respect to such calendar year;

(C) to any other political committee (other than a committee described in subparagraph (D)) in any calendar year which, in the aggregate, exceed \$5,000; or

(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed \$10,000.

(2) No multicandidate political committee shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000;

(B) to the political committees established and maintained by a national political party,

which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed \$15,000, or, in the case of contributions made to any of the accounts described in paragraph (9), exceed 300 percent of the amount otherwise applicable under this subparagraph with respect to such calendar year; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

(3) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than—

(A) \$37,500, in the case of contributions to candidates and the authorized committees of candidates;

(B) \$57,500, in the case of any other contributions, of which not more than \$37,500 may be attributable to contributions to political committees which are not political committees of national political parties.

(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term “multicandidate political committee” means a political committee which has been registered under section 30103 of this title for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund raising efforts; (B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and (C) nothing in this section shall limit the transfer of funds between the principal campaign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if (i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices; (ii) the limitations contained in

this Act on contributions by persons are not exceeded by such transfer; and (iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of title 26. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

(7) For purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

(ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and

(iii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and¹

(C) if—

(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 30104(f)(3) of this title); and

(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party; and

(D) contributions made to or for the benefit of any candidate nominated by a political

¹ So in original. The word “and” probably should not appear.

party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

(9) An account described in this paragraph is any of the following accounts:

(A) A separate, segregated account of a national committee of a political party (other than a national congressional campaign committee of a political party) which is used solely to defray expenses incurred with respect to a presidential nominating convention (including the payment of deposits) or to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds used to defray such expenses, except that the aggregate amount of expenditures the national committee of a political party may make from such account may not exceed \$20,000,000 with respect to any single convention.

(B) A separate, segregated account of a national committee of a political party (including a national congressional campaign committee of a political party) which is used solely to defray expenses incurred with respect to the construction, purchase, renovation, operation, and furnishing of one or more headquarters buildings of the party or to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds used to defray such expenses (including expenses for obligations incurred during the 2-year period which ends on December 16, 2014).

(C) A separate, segregated account of a national committee of a political party (including a national congressional campaign committee of a political party) which is used to defray expenses incurred with respect to the preparation for and the conduct of election recounts and contests and other legal proceedings.

(b) Dollar limits on expenditures by candidates for office of President of United States

(1) No candidate for the office of President of the United States who is eligible under section 9003 of title 26 (relating to condition for eligibility for payments) or under section 9033 of title 26 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

(A) \$10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or \$200,000; or

(B) \$20,000,000 in the case of a campaign for election to such office.

(2) For purposes of this subsection—

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or

(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

(c) Increases on limits based on increases in price index

(1)(A) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period.

(B) Except as provided in subparagraph (C), in any calendar year after 2002—

(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

(ii) each amount so increased shall remain in effect for the calendar year; and

(iii) if any amount after adjustment under clause (i) is not a multiple of \$100, such amount shall be rounded to the nearest multiple of \$100.

(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election.

(2) For purposes of paragraph (1)—

(A) the term “price index” means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term “base period” means—

(i) for purposes of subsections (b) and (d), calendar year 1974; and

(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001.

(d) Expenditures by national committee, State committee, or subordinate committee of State committee in connection with general election campaign of candidates for Federal office

(1) Notwithstanding any other provision of law with respect to limitations on expenditures or

limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2), (3), and (4) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

- (i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or
- (ii) \$20,000; and

(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, \$10,000.

(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, no committee of the political party may make—

- (i) any coordinated expenditure under this subsection with respect to the candidate during the election cycle at any time after it makes any independent expenditure (as defined in section 30101(17) of this title) with respect to the candidate during the election cycle; or
- (ii) any independent expenditure (as defined in section 30101(17) of this title) with respect to the candidate during the election cycle at any time after it makes any coordinated expenditure under this subsection with respect to the candidate during the election cycle.

(B) APPLICATION.—For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

(C) TRANSFERS.—A committee of a political party that makes coordinated expenditures

under this subsection with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.

(5) The limitations contained in paragraphs (2), (3), and (4) of this subsection shall not apply to expenditures made from any of the accounts described in subsection (a)(9).

(e) Certification and publication of estimated voting age population

During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term “voting age population” means resident population, 18 years of age or older.

(f) Prohibited contributions and expenditures

No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(g) Attribution of multi-State expenditures to candidate's expenditure limitation in each State

The Commission shall prescribe rules under which any expenditure by a candidate for presidential nominations for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

(h) Senatorial candidates

Notwithstanding any other provision of this Act, amounts totaling not more than \$35,000 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

(i) Increased limit to allow response to expenditures from personal funds

(1) Increase

(A) In general

Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the “applicable limit”) with

respect to that candidate shall be the increased limit.

(B) Threshold amount

(i) State-by-State competitive and fair campaign formula

In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of—

- (I) \$150,000; and
- (II) \$0.04 multiplied by the voting age population.

(ii) Voting age population

In this subparagraph, the term “voting age population” means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under subsection (e)).

(C) Increased limit

Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over—

- (i) 2 times the threshold amount, but not over 4 times that amount—

(I) the increased limit shall be 3 times the applicable limit; and

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

- (ii) 4 times the threshold amount, but not over 10 times that amount—

(I) the increased limit shall be 6 times the applicable limit; and

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

- (iii) 10 times the threshold amount—

(I) the increased limit shall be 6 times the applicable limit;

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

(D) Opposition personal funds amount

The opposition personal funds amount is an amount equal to the excess (if any) of—

- (i) the greatest aggregate amount of expenditures from personal funds (as defined in section 30104(a)(6)(B) of this title) that an opposing candidate in the same election makes; over

- (ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

(E) Special rule for candidate's campaign funds

(i) In general

For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

(ii) Gross receipts advantage

For purposes of clause (i), the term “gross receipts advantage” means the excess, if any, of—

- (I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

- (II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

(2) Time to accept contributions under increased limit

(A) In general

Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

- (i) until the candidate has received notification of the opposition personal funds amount under section 30104(a)(6)(B) of this title; and

- (ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

(B) Effect of withdrawal of an opposing candidate

A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

(3) Disposal of excess contributions

(A) In general

The aggregate amount of contributions accepted by a candidate or a candidate's au-

thorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

(B) Return to contributors

A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

(j) Limitation on repayment of personal loans

Any candidate who incurs personal loans made after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed \$250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.

(Pub. L. 92-225, title III, §315, formerly §320, as added Pub. L. 94-283, title I, §112(2), May 11, 1976, 90 Stat. 486; renumbered §315, Pub. L. 96-187, title I, §105(5), Jan. 8, 1980, 93 Stat. 1354; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 107-155, title I, §102, title II, §§202, 213, 214(a), title III, §§304(a), 307(a)-(d), 316, 319(b), Mar. 27, 2002, 116 Stat. 86, 90, 94, 97, 102, 103, 108, 112; Pub. L. 113-235, div. N, §101(a), (b), Dec. 16, 2014, 128 Stat. 2772, 2773.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(5) and (h), means the Federal Election Campaign Act of 1971, as defined by section 30101 of this title.

For effective date of the Bipartisan Campaign Reform Act of 2002, referred to in subsec. (j), see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of this title.

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of section 315 of Pub. L. 92-225, as added by section 112(2) of Pub. L. 94-283 and amended by section 213 of Pub. L. 107-155, and information regarding constitutionality of certain provisions of section 307(b) of Pub. L. 107-155, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

CODIFICATION

Section was formerly classified to section 441a of Title 2, The Congress, prior to editorial reclassification and renumbering as this section. Some section numbers referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification to this title.

PRIOR PROVISIONS

A prior section 315 of Pub. L. 92-225 was renumbered section 311, and is classified to section 30111 of this title.

Another prior section 315 of Pub. L. 92-225 was renumbered section 310, and is classified to section 30110 of this title.

AMENDMENTS

2014—Subsec. (a)(1)(B). Pub. L. 113-235, §101(a)(1), inserted “, or, in the case of contributions made to any

of the accounts described in paragraph (9), exceed 300 percent of the amount otherwise applicable under this subparagraph with respect to such calendar year” before semicolon at end.

Subsec. (a)(2)(B). Pub. L. 113-235, §101(a)(2), which directed amendment by substituting “, or, in the case of contributions made to any of the accounts described in paragraph (9), exceed 300 percent of the amount otherwise applicable under this subparagraph with respect to such calendar year;” for the semicolon at the end, was executed by making the substitution for the semicolon which appeared before “or” at the end to reflect the probable intent of Congress.

Subsec. (a)(9). Pub. L. 113-235, §101(a)(3), added par. (9).

Subsec. (d)(5). Pub. L. 113-235, §101(b), added par. (5). 2002—Subsec. (a)(1). Pub. L. 107-155, §§304(a)(1), 319(b), substituted “Except as provided in subsection (i) and section 441a-1 of this title, no person” for “No person” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 107-155, §307(a)(1), substituted “\$2,000” for “\$1,000”.

Subsec. (a)(1)(B). Pub. L. 107-155, §§102(1), 307(a)(2), substituted “\$25,000;” for “\$20,000; or”.

Subsec. (a)(1)(C). Pub. L. 107-155, §102(2), inserted “(other than a committee described in subparagraph (D))” after “committee” and substituted “; or” for period at end.

Subsec. (a)(1)(D). Pub. L. 107-155, §102(3), added subpar. (D).

Subsec. (a)(3). Pub. L. 107-155, §307(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “No individual shall make contributions aggregating more than \$25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.”

Subsec. (a)(7)(B)(ii), (iii). Pub. L. 107-155, §214(a), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (a)(7)(C), (D). Pub. L. 107-155, §202, added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (c)(1). Pub. L. 107-155, §307(d)(1), redesignated existing provisions as subpar. (A), struck out at end “Each limitation established by subsection (b) of this section and subsection (d) of this section shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.”, and added subpars. (B) and (C).

Subsec. (c)(2)(B). Pub. L. 107-155, §307(d)(2), substituted “means—” for “means the calendar year 1974” and added cls. (i) and (ii).

Subsec. (d)(1). Pub. L. 107-155, §213(1), substituted “paragraphs (2), (3), and (4)” for “paragraphs (2) and (3)”.

Subsec. (d)(4). Pub. L. 107-155, §213(2), added par. (4). Subsec. (h). Pub. L. 107-155, §307(c), substituted “\$35,000” for “\$17,500”.

Subsec. (i). Pub. L. 107-155, §304(a)(2), added subsec. (i).

Subsec. (i)(1)(E). Pub. L. 107-155, §316, added subpar. (E).

Subsec. (j). Pub. L. 107-155, §304(a)(2), added subsec. (j).

1986—Subsecs. (a)(5), (b)(1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-235, div. N, §101(c), Dec. 16, 2014, 128 Stat. 2773, provided that: “The amendments made by this section [amending this section] shall apply with respect to funds that are solicited, received, transferred, or spent on or after the date of the enactment of this section [Dec. 16, 2014].”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-155, title III, §307(e), Mar. 27, 2002, 116 Stat. 103, provided that: “The amendments made by

this section [amending this section] shall apply with respect to contributions made on or after January 1, 2003.”

Amendment by Pub. L. 107–155 effective Nov. 6, 2002, except that amendments by sections 102 and 307 of the Act applicable with respect to contributions made on or after Jan. 1, 2003, and amendments by sections 202, 213, 214(a), 304(a), 316, and 319(b) of the Act not applicable with respect to runoff elections, recounts, or election contests resulting from elections held prior to Nov. 6, 2002, see section 402 of Pub. L. 107–155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of this title.

REGULATIONS BY THE FEDERAL ELECTION COMMISSION

Pub. L. 107–155, title II, §214(c), Mar. 27, 2002, 116 Stat. 95, provided that: “The Federal Election Commission shall promulgate new regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees. The regulations shall not require agreement or formal collaboration to establish coordination. In addition to any subject determined by the Commission, the regulations shall address—

“(1) payments for the republication of campaign materials;

“(2) payments for the use of a common vendor;

“(3) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party; and

“(4) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.”

§ 30117. Modification of certain limits for House candidates in response to personal fund expenditures of opponents

(a) Availability of increased limit

(1) In general

Subject to paragraph (3), if the opposition personal funds amount with respect to a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress exceeds \$350,000—

(A) the limit under subsection (a)(1)(A)¹ with respect to the candidate shall be tripled;

(B) the limit under subsection (a)(3)¹ shall not apply with respect to any contribution made with respect to the candidate if the contribution is made under the increased limit allowed under subparagraph (A) during a period in which the candidate may accept such a contribution; and

(C) the limits under subsection (d)¹ with respect to any expenditure by a State or national committee of a political party on behalf of the candidate shall not apply.

(2) Determination of opposition personal funds amount

(A) In general

The opposition personal funds amount is an amount equal to the excess (if any) of—

(i) the greatest aggregate amount of expenditures from personal funds (as defined in subsection (b)(1)) that an opposing candidate in the same election makes; over

(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

¹ See References in Text note below.

(B) Special rule for candidate’s campaign funds

(i) In general

For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (A), such amount shall include the gross receipts advantage of the candidate’s authorized committee.

(ii) Gross receipts advantage

For purposes of clause (i), the term “gross receipts advantage” means the excess, if any, of—

(I) the aggregate amount of 50 percent of gross receipts of a candidate’s authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate’s authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

(3) Time to accept contributions under increased limit

(A) In general

Subject to subparagraph (B), a candidate and the candidate’s authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

(i) until the candidate has received notification of the opposition personal funds amount under subsection (b)(1); and

(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 100 percent of the opposition personal funds amount.

(B) Effect of withdrawal of an opposing candidate

A candidate and a candidate’s authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

(4) Disposal of excess contributions

(A) In general

The aggregate amount of contributions accepted by a candidate or a candidate’s authorized committee under the increased limit under paragraph (1) and not otherwise

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expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

(B) Return to contributors

A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

(b) Notification of expenditures from personal funds

(1) In general

(A) Definition of expenditure from personal funds

In this paragraph, the term “expenditure from personal funds” means—

- (i) an expenditure made by a candidate using personal funds; and
- (ii) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

(B) Declaration of intent

Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed \$350,000.

(C) Initial notification

Not later than 24 hours after a candidate described in subparagraph (B) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of \$350,000 in connection with any election, the candidate shall file a notification.

(D) Additional notification

After a candidate files an initial notification under subparagraph (C), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceeds \$10,000. Such notification shall be filed not later than 24 hours after the expenditure is made.

(E) Contents

A notification under subparagraph (C) or (D) shall include—

- (i) the name of the candidate and the office sought by the candidate;
- (ii) the date and amount of each expenditure; and
- (iii) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

(F) Place of filing

Each declaration or notification required to be filed by a candidate under subparagraph (C), (D), or (E) shall be filed with—

- (i) the Commission; and
- (ii) each candidate in the same election and the national party of each such candidate.

(2) Notification of disposal of excess contributions

In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under subsection (a)) and the manner in which the candidate or the candidate's authorized committee used such funds.

(3) Enforcement

For provisions providing for the enforcement of the reporting requirements under this subsection, see section 30109 of this title.

(Pub. L. 92-225, title III, §315A, as added Pub. L. 107-155, title III, §319(a), Mar. 27, 2002, 116 Stat. 109.)

REFERENCES IN TEXT

Subsections (a)(1)(A), (3), and (d), referred to in subsec. (a)(1), probably mean subsections (a)(1)(A), (3), and (d) of section 30116 of this title.

CONSTITUTIONALITY

For information regarding constitutionality of section 315A of Pub. L. 92-225, as added by section 319(a) of Pub. L. 107-155, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

CODIFICATION

Section was formerly classified to section 441a-1 of Title 2, The Congress, prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

Section effective Nov. 6, 2002, but not applicable with respect to runoff elections, recounts, or election contests resulting from elections held prior to Nov. 6, 2002, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of this title.

§30118. Contributions or expenditures by national banks, corporations, or labor organizations

(a) In general

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for

any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

(b) Definitions; particular activities prohibited or allowed

(1) For the purposes of this section the term “labor organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(2) For purposes of this section and section 79(h) of title 15,¹ the term “contribution or expenditure” includes a contribution or expenditure, as those terms are defined in section 30101 of this title, and also includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section or for any applicable electioneering communication, but shall not include (A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; (B) non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(3) It shall be unlawful—

(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform

such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

(4)(A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of \$50 or less as a result of such solicitation and who does not make such a contribution.

(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contribu-

¹ See References in Text note below.

tions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term “executive or administrative personnel” means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(c) Rules relating to electioneering communications

(1) Applicable electioneering communication

For purposes of this section, the term “applicable electioneering communication” means an electioneering communication (within the meaning of section 30104(f)(3) of this title) which is made by any entity described in subsection (a) of this section or by any other person using funds donated by an entity described in subsection (a) of this section.

(2) Exception

Notwithstanding paragraph (1), the term “applicable electioneering communication” does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of title 26) made under section 30104(f)(2)(E) or (F) of this title if the communication is paid for exclusively by funds provided directly by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 1101(a)(20) of title 8). For purposes of the preceding sentence, the term “provided directly by individuals” does not include funds the source of which is an entity described in subsection (a) of this section.

(3) Special operating rules

(A) Definition under paragraph (1)

An electioneering communication shall be treated as made by an entity described in subsection (a) if an entity described in subsection (a) directly or indirectly disburses any amount for any of the costs of the communication.

(B) Exception under paragraph (2)

A section 501(c)(4) organization that derives amounts from business activities or receives funds from any entity described in subsection (a) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute, as described in section 30104(f)(2)(E) of this title.

(4) Definitions and rules

For purposes of this subsection—

(A) the term “section 501(c)(4) organization” means—

(i) an organization described in section 501(c)(4) of title 26 and exempt from taxation under section 501(a) of such title; or

(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

(5) Coordination with title 26

Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of title 26 to carry out any activity which is prohibited under such title.

(6) Special rules for targeted communications

(A) Exception does not apply

Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

(B) Targeted communication

For purposes of subparagraph (A), the term “targeted communication” means an electioneering communication (as defined in section 30104(f)(3) of this title) that is distributed from a television or radio broadcast station or provider of cable or satellite television service and, in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

(C) Definition

For purposes of this paragraph, a communication is “targeted to the relevant electorate” if it meets the requirements described in section 30104(f)(3)(C) of this title.

(Pub. L. 92-225, title III, §316, formerly §321, as added Pub. L. 94-283, title I, §112(2), May 11, 1976, 90 Stat. 490; renumbered §316 and amended Pub. L. 96-187, title I, §§105(5), 112(d), Jan. 8, 1980, 93 Stat. 1354, 1366; Pub. L. 107-155, title II, §§203, 204, 214(d), Mar. 27, 2002, 116 Stat. 91, 92, 95.)

REFERENCES IN TEXT

Section 79f of title 15, referred to in subsec. (b)(2), was repealed by Pub. L. 109-58, title XII, §1263, Aug. 8, 2005, 119 Stat. 974.

CODIFICATION

Section was formerly classified to section 441b of Title 2, The Congress, prior to editorial reclassification and renumbering as this section. Some section numbers referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification to this title.

CONSTITUTIONALITY

For information regarding constitutionality of section 316 of Pub. L. 92-225, as added by section 112(2) of Pub. L. 94-283, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

PRIOR PROVISIONS

A prior section 316 of Pub. L. 92-225 was renumbered section 312, and is classified to section 30113 of this title.

Another prior section 316 of Pub. L. 92-225 was renumbered section 311, and is classified to section 30111 of this title.

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107-155, §§ 203(a), 214(d), substituted “‘contribution or expenditure’ includes a contribution or expenditure, as those terms are defined in section 431 of this title, and also includes” for “‘contribution or expenditure’ shall include” and inserted “or for any applicable electioneering communication” before “, but shall not include (A)”.

Subsec. (c). Pub. L. 107-155, § 203(b), added subsec. (c).

Subsec. (c)(6). Pub. L. 107-155, § 204, added par. (6).

1980—Subsec. (b)(4)(B). Pub. L. 96-187, § 112(d), substituted “It” for “it”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-155 effective Nov. 6, 2002, but not applicable with respect to runoff elections, recounts, or election contests resulting from elections held prior to Nov. 6, 2002, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as a note under section 30101 of this title.

§ 30119. Contributions by Government contractors

(a) Prohibition

It shall be unlawful for any person—

(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

(b) Separate segregated funds

This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 30118 of this title prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate seg-

regated fund under section 30118 of this title applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

(c) “Labor organization” defined

For purposes of this section, the term “labor organization” has the meaning given it by section 30118(b)(1) of this title.

(Pub. L. 92-225, title III, § 317, formerly § 322, as added Pub. L. 94-283, title I, § 112(2), May 11, 1976, 90 Stat. 492; renumbered § 317, Pub. L. 96-187, title I, § 105(5), Jan. 8, 1980, 93 Stat. 1354.)

REFERENCES IN TEXT

Section 30118 of this title, referred to in subsecs. (b) and (c), was in the original “section 321” meaning section 321 of Pub. L. 92-225 which is classified to section 30123 of this title. In view of the renumbering of section 321 as section 316 by section 105(5) of Pub. L. 96-187, the reference has been translated as reading “section 316” to reflect the probable intent of Congress.

CODIFICATION

Section was formerly classified to section 441c of Title 2, The Congress, prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 317 of Pub. L. 92-225 was renumbered section 313, and is classified to section 30114 of this title.

Another prior section 317 of Pub. L. 92-225 was renumbered section 312, and is classified to section 30113 of this title.

§ 30120. Publication and distribution of statements and solicitations

(a) Identification of funding and authorizing sources

Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever any person makes a disbursement for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising or makes a disbursement for an electioneering communication (as defined in section 30104(f)(3) of this title), such communication—

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or¹

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;¹

(3) if not authorized by a candidate, an authorized political committee of a candidate, or

¹ So in original. The word “or” probably should appear at the end of par. (2).

Appendix A.6
18 U.S.C. § 1519

AMENDMENTS

1996—Subsec. (a)(1)(D). Pub. L. 104-294 struck out “or” after semicolon at end.

Subsecs. (b), (c). Pub. L. 104-292 added subsec. (b) and redesignated former subsec. (b) as (c).

1994—Subsec. (a)(1)(D). Pub. L. 103-322 added subpar. (D).

1992—Subsec. (a)(1)(A). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1988—Subsec. (a)(1)(A). Pub. L. 100-690, § 7029(b), inserted “a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Claims Court,” after “bankruptcy judge.”

Subsec. (a)(6). Pub. L. 100-690, § 7029(d), added par. (6).

1986—Pub. L. 99-646 inserted “; general provision” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

CHANGE OF NAME

“United States magistrate judge” substituted for “United States magistrate” in subsec. (a)(1)(A) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective Oct. 12, 1982, see section 9(a) of Pub. L. 97-291, set out as a note under section 1512 of this title.

§ 1516. Obstruction of Federal audit

(a) Whoever, with intent to deceive or defraud the United States, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person, entity, or program receiving in excess of \$100,000, directly or indirectly, from the United States in any 1 year period under a contract or subcontract, grant, or cooperative agreement, or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary, or relating to any property that is security for a loan that is made or guaranteed under title V of the Housing Act of 1949, shall be fined under this title, or imprisoned not more than 5 years, or both.

(b) For purposes of this section—

(1) the term “Federal auditor” means any person employed on a full- or part-time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States; and

(2) the term “in any 1 year period” has the meaning given to the term “in any one-year period” in section 666.

(Added Pub. L. 100-690, title VII, § 7078(a), Nov. 18, 1988, 102 Stat. 4406; amended Pub. L. 103-322, title XXXII, § 320609, Sept. 13, 1994, 108 Stat. 2120; Pub. L. 104-294, title VI, § 604(b)(43), Oct. 11, 1996,

110 Stat. 3509; Pub. L. 105-65, title V, § 564, Oct. 27, 1997, 111 Stat. 1420; Pub. L. 106-569, title VII, § 709(b), Dec. 27, 2000, 114 Stat. 3018; Pub. L. 107-273, div. A, title II, § 205(c), Nov. 2, 2002, 116 Stat. 1778.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (a), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Act is classified generally to subchapter III (§1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-273 inserted “, entity, or program” after “person” and “grant, or cooperative agreement,” after “subcontract.”

2000—Subsec. (a). Pub. L. 106-569 inserted “or relating to any property that is security for a loan that is made or guaranteed under title V of the Housing Act of 1949,” before “shall be fined under this title”.

1997—Subsec. (a). Pub. L. 105-65 inserted “or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,” after “under a contract or subcontract.”

1996—Subsec. (b)(1). Pub. L. 104-294 inserted “and” after semicolon at end.

1994—Subsec. (b). Pub. L. 103-322 substituted “section—” for “section”, inserted “(1)” before “the term”, substituted semicolon for the period at end, and added par. (2).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

§ 1517. Obstructing examination of financial institution

Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.

(Added Pub. L. 101-647, title XXV, § 2503(a), Nov. 29, 1990, 104 Stat. 4861.)

§ 1518. Obstruction of criminal investigations of health care offenses

(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

(b) As used in this section the term “criminal investigator” means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.

(Added Pub. L. 104-191, title II, § 245(a), Aug. 21, 1996, 110 Stat. 2017.)

§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a

false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

(Added Pub. L. 107-204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.)

§ 1520. Destruction of corporate audit records

(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies. The Commission may, from time to time, amend or supplement the rules and regulations that it is required to promulgate under this section, after adequate notice and an opportunity for comment, in order to ensure that such rules and regulations adequately comport with the purposes of this section.

(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 10 years, or both.

(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation imposed by Federal or State law or regulation to maintain, or refrain from destroying, any document.

(Added Pub. L. 107-204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.)

§ 1521. Retaliating against a Federal judge or Federal law enforcement officer by false claim or slander of title

Whoever files, attempts to file, or conspires to file, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of an individual described in section 1114, on account of the performance of official duties by that individual, knowing or having reason to know that such

lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 10 years, or both.

(Added Pub. L. 110-177, title II, §201(a), Jan. 7, 2008, 121 Stat. 2535.)

CHAPTER 74—PARTIAL-BIRTH ABORTIONS

Sec.

1531. Partial-birth abortions prohibited.

§ 1531. Partial-birth abortions prohibited

(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the enactment.

(b) As used in this section—

(1) the term “partial-birth abortion” means an abortion in which the person performing the abortion—

(A) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

(2) the term “physician” means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: *Provided, however*, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff’s criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include—

(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(B) statutory damages equal to three times the cost of the partial-birth abortion.

Appendix A.7
18 U.S.C. § 1001

2006—Pub. L. 109-177, title III, §302(b), Mar. 9, 2006, 120 Stat. 233, inserted “or seaport” at end of item 1036.
 2004—Pub. L. 108-458, title VI, §6702(b), Dec. 17, 2004, 118 Stat. 3766, added item 1038.
 Pub. L. 108-275, §2(b), July 15, 2004, 118 Stat. 832, added item 1028A.
 2003—Pub. L. 108-187, §4(a)(2), Dec. 16, 2003, 117 Stat. 2705, added item 1037.
 2000—Pub. L. 106-547, §2(b), Dec. 19, 2000, 114 Stat. 2739, added item 1036.
 1998—Pub. L. 105-318, §3(h)(2), Oct. 30, 1998, 112 Stat. 3009, inserted “and information” at end of item 1028.
 1996—Pub. L. 104-294, title VI, §601(f)(8), Oct. 11, 1996, 110 Stat. 3500, substituted “veteran’s facilities” for “veterans’ facilities” in item 1024.
 Pub. L. 104-191, title II, §244(b), Aug. 21, 1996, 110 Stat. 2017, added item 1035.
 1994—Pub. L. 103-322, title XXXII, §320603(b), Sept. 13, 1994, 108 Stat. 2118, added items 1033 and 1034.
 1990—Pub. L. 101-647, title XXV, §2501(b), title XXXV, §3532, Nov. 29, 1990, 104 Stat. 4860, 4925, inserted a period after “1031” and added item 1032.
 1989—Pub. L. 101-73, title IX, §§961(g)(2), 962(a)(4), Aug. 9, 1989, 103 Stat. 500, 502, struck out item 1008 “Federal Savings and Loan Insurance Corporation transactions” and item 1009 “Rumors regarding Federal Savings and Loan Insurance Corporation”.
 1988—Pub. L. 100-700, §2(c), Nov. 19, 1988, 102 Stat. 4632, added item 1031.
 1984—Pub. L. 98-473, title II, §§1602(b), 2102(b), Oct. 12, 1984, 98 Stat. 2184, 2192, added items 1029 and 1030.
 1982—Pub. L. 97-398, §3, Dec. 31, 1982, 96 Stat. 2010, added item 1028.
 1974—Pub. L. 93-406, title I, §111(a)(2)(B)(iii), Sept. 2, 1974, 88 Stat. 852, substituted “Employee Retirement Income Security Act of 1974” for “Welfare and Pension Plans Disclosure Act” in item 1027.
 1967—Pub. L. 90-19, §24(e), May 25, 1967, 81 Stat. 28, included “Department of Housing and Urban Development” in item 1010, and substituted the same for “Public Housing Administration” in item 1012.
 1962—Pub. L. 87-420, §17(d), Mar. 20, 1962, 76 Stat. 42, added item 1027.
 1951—Act Oct. 31, 1951, ch. 655, §25, 65 Stat. 720, substituted “Public Housing Administration” for “United States Housing Authority” in item 1012.
 1949—Act May 24, 1949, ch. 139, §§18, 19, 63 Stat. 92, corrected spelling in item 1012 and substituted “officers” for “offices” in item 1019.

§ 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or
- (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party’s counsel, for statements, representations, writings or doc-

uments submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

- (1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or
- (2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-292, §2, Oct. 11, 1996, 110 Stat. 3459; Pub. L. 108-458, title VI, §6703(a), Dec. 17, 2004, 118 Stat. 3766; Pub. L. 109-248, title I, §141(c), July 27, 2006, 120 Stat. 603.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §80 (Mar. 4, 1909, ch. 321, §35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Section 80 of title 18, U.S.C., 1940 ed., was divided into two parts.

The provision relating to false claims was incorporated in section 287 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Words “or any corporation in which the United States of America is a stockholder” in said section 80 were omitted as unnecessary in view of definition of “agency” in section 6 of this title.

In addition to minor changes of phraseology, the maximum term of imprisonment was changed from 10 to 5 years to be consistent with comparable sections. (See reviser’s note under section 287 of this title.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-248 inserted last sentence in concluding provisions.

2004—Subsec. (a). Pub. L. 108-458 substituted “be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both” for “be fined under this title or imprisoned not more than 5 years, or both” in concluding provisions.

1996—Pub. L. 104-292 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both.”

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-275, §1, July 15, 2004, 118 Stat. 831, provided that: “This Act [enacting section 1028A of this title, amending sections 641 and 1028 of this title, and enacting provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Identity Theft Penalty Enhancement Act’.”

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108-21, title VI, §607(a), Apr. 30, 2003, 117 Stat. 689, provided that: “This section [amending section 1028 of this title] may be cited as the ‘Secure Authentication Feature and Enhanced Identification Defense Act of 2003’ or ‘SAFE ID Act’.”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-578, §1, Dec. 28, 2000, 114 Stat. 3075, provided that: “This Act [amending section 1028 of this title, repealing section 1738 of this title, and enacting provisions set out as notes under section 1028 of this title] may be cited as the ‘Internet False Identification Prevention Act of 2000’.”

SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105-318, §1, Oct. 30, 1998, 112 Stat. 3007, provided that: “This Act [amending sections 982, 1028, and 2516 of this title and section 105 of the Ethics in Government Act of 1978, Pub. L. 95-521, set out in the Appendix to Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 1028 of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Identity Theft and Assumption Deterrence Act of 1998’.”

Pub. L. 105-172, §1, Apr. 24, 1998, 112 Stat. 53, provided that: “This Act [amending section 1029 of this title and enacting provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Wireless Telephone Protection Act’.”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-292, §1, Oct. 11, 1996, 110 Stat. 3459, provided that: “This Act [amending this section, sections 1515 and 6005 of this title, and section 1365 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘False Statements Accountability Act of 1996’.”

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-322, title XXIX, §290001(a), Sept. 13, 1994, 108 Stat. 2097, as amended by Pub. L. 104-294, title VI, §604(b)(34), Oct. 11, 1996, 110 Stat. 3508, provided that: “This section [amending section 1030 of this title] may be cited as the ‘Computer Abuse Amendments Act of 1994’.”

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-647, title XXV, §2500, Nov. 29, 1990, 104 Stat. 4859, provided that: “This title [see Tables for classification] may be cited as the ‘Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990’.”

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101-123, §1, Oct. 23, 1989, 103 Stat. 759, provided that: “This Act [amending section 1031 of this title, repealing section 293 of this title, enacting provisions set out as notes under sections 293 and 1031 of this title, and repealing provisions set out as a note under section 293 of this title] may be cited as the ‘Major Fraud Act Amendments of 1989’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-700, §1, Nov. 19, 1988, 102 Stat. 4631, provided that: “This Act [enacting sections 293 and 1031 of this title and section 256 of Title 41, Public Contracts,

amending section 2324 of Title 10, Armed Forces, and section 3730 of Title 31, Money and Finance, enacting provisions set out as notes under sections 293 and 1031 of this title, section 2324 of Title 10, and section 522 of Title 28, Judiciary and Judicial Procedure, and repealing provisions set out as a note under section 2324 of Title 10] may be cited as the ‘Major Fraud Act of 1988’.”

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-474, §1, Oct. 16, 1986, 100 Stat. 1213, provided that: “This Act [amending section 1030 of this title] may be cited as the ‘Computer Fraud and Abuse Act of 1986’.”

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-473, title II, §1601, Oct. 12, 1984, 98 Stat. 2183, provided that: “This chapter [chapter XVI (§§1601-1603) of title II of Pub. L. 98-473, enacting section 1029 of this title and provisions set out as a note under section 1029 of this title] may be cited as the ‘Credit Card Fraud Act of 1984’.”

Pub. L. 98-473, title II, §2101, Oct. 12, 1984, 98 Stat. 2190, provided that: “This chapter [chapter XXI (§§2101-2103) of title II of Pub. L. 98-473, enacting section 1030 of this title and provisions set out as a note under section 1030 of this title] may be cited as the ‘Counterfeit Access Device and Computer Fraud and Abuse Act of 1984’.”

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-398, §1, Dec. 31, 1982, 96 Stat. 2009, provided: “That this Act [enacting sections 1028 and 1738 of this title and amending section 3001 of Title 39, Postal Service] may be cited as the ‘False Identification Crime Control Act of 1982’.”

§ 1002. Possession of false papers to defraud United States

Whoever, knowingly and with intent to defraud the United States, or any agency thereof, possesses any false, altered, forged, or counterfeited writing or document for the purpose of enabling another to obtain from the United States, or from any agency, officer or agent thereof, any sum of money, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §74 (Mar. 4, 1909, ch. 321, §30, 35 Stat. 1094).

Words “or any agency thereof” after “United States” and word “agency” after “any” and before “officer,” were inserted to eliminate any possible ambiguity as to scope of section. (See definition of “agency” in section 6 of this title.)

The maximum fine of “\$10,000” was substituted for “\$500” in order to conform punishment provisions to those of comparable sections. (See section 1001 of this title.)

Minor verbal change was made.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

§ 1003. Demands against the United States

Whoever knowingly and fraudulently demands or endeavors to obtain any share or sum in the public stocks of the United States, or to have any part thereof transferred, assigned, sold, or conveyed, or to have any annuity, dividend, pension, wages, gratuity, or other debt due from the

Appendix A.8
18 U.S.C. § 371

Oct. 6, 1982, 96 Stat. 1219; Pub. L. 99-646, § 62, Nov. 10, 1986, 100 Stat. 3614; Pub. L. 100-690, title VII, § 7074, Nov. 18, 1988, 102 Stat. 4405; Pub. L. 103-322, title XXXII, § 320101(d), title XXXIII, §§ 330016(1)(K), (L), 330021(1), Sept. 13, 1994, 108 Stat. 2108, 2147, 2150; Pub. L. 104-294, title VI, § 604(b)(12)(C), (c)(2), Oct. 11, 1996, 110 Stat. 3507, 3509; Pub. L. 112-87, title V, § 506, Jan. 3, 2012, 125 Stat. 1897.)

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-87 inserted “the Director (or a person nominated to be Director during the pendency of such nomination) or Principal Deputy Director of National Intelligence,” after “in such department,” and substituted “the Central Intelligence Agency,” for “Central Intelligence.”.

1996—Subsec. (e). Pub. L. 104-294, § 604(c)(2), substituted “involved the use” for “involved in the use”.

Pub. L. 104-294, § 604(b)(12)(C), repealed Pub. L. 103-322, § 320101(d)(3). See 1994 Amendment note below.

1994—Pub. L. 103-322, § 330021(1), substituted “kidnaping” for “kidnaping” in section catchline.

Subsec. (e). Pub. L. 103-322, § 330016(1)(L), substituted “shall be fined under this title” for “shall be fined not more than \$10,000” after “personal injury results.”.

Pub. L. 103-322, § 320101(d)(4), substituted “imprisoned not more than ten years” for “imprisoned for not more than ten years”.

Pub. L. 103-322, § 320101(d)(3), which provided for amendment identical to Pub. L. 103-322, § 330016(1)(L), above, was repealed by Pub. L. 104-294, § 604(b)(12)(C).

Pub. L. 103-322, § 320101(d)(2), inserted “the assault involved in the use of a dangerous weapon, or” after “and if”.

Pub. L. 103-322, §§ 320101(d)(1), 330016(1)(K), amended subsec. (e) identically, substituting “shall be fined under this title” for “shall be fined not more than \$5,000” after “subsection (a) of this section”.

1988—Subsec. (a). Pub. L. 100-690 inserted a comma after “section 3056 of this title”.

1986—Subsec. (a). Pub. L. 99-646, § 62(1), inserted “a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title)”.

Subsec. (h). Pub. L. 99-646, § 62(2), substituted “individual” for “official”.

1982—Pub. L. 97-285, § 2(a), substituted “Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties” for “Congressional assassination, kidnaping, and assault” in section catchline.

Subsec. (a). Pub. L. 97-285, § 1(a), expanded coverage of subsec. (a) to cover the killing of any individual who is a member of the executive branch of the Government and the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination.

Subsecs. (h), (i). Pub. L. 97-285, § 1(b), added subsecs. (h) and (i).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

REPORT TO MEMBER OF CONGRESS ON INVESTIGATION CONDUCTED SUBSEQUENT TO THREAT ON MEMBER'S LIFE

Pub. L. 95-624, § 19, Nov. 9, 1978, 92 Stat. 3466, provided that: “The Federal Bureau of Investigation shall provide a written report to a Member of Congress on any investigation conducted based on a threat on the Mem-

ber's life under section 351 of title 18 of the United States Code.”

CHAPTER 19—CONSPIRACY

Sec.

- 371. Conspiracy to commit offense or to defraud United States.
- 372. Conspiracy to impede or injure officer.
- 373. Solicitation to commit a crime of violence.

AMENDMENTS

1984—Pub. L. 98-473, title II, § 1003(b), Oct. 12, 1984, 98 Stat. 2138, added item 373.

§ 371. Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 88, 294 (Mar. 4, 1909, ch. 321, § 37, 35 Stat. 1096; Mar. 4, 1909, ch. 321, § 178a, as added Sept. 27, 1944, ch. 425, 58 Stat. 752).

This section consolidates said sections 88 and 294 of title 18, U.S.C., 1940 ed.

To reflect the construction placed upon said section 88 by the courts the words “or any agency thereof” were inserted. (See *Haas v. Henkel*, 1909, 30 S. Ct. 249, 216 U. S. 462, 54 L. Ed. 569, 17 Ann. Cas. 1112, where court said: “The statute is broad enough in its terms to include any conspiracy for the purpose of impairing, obstructing, or defeating the lawful functions of any department of government.” Also, see *United States v. Walter*, 1923, 44 S. Ct. 10, 263 U. S. 15, 68 L. Ed. 137, and definitions of department and agency in section 6 of this title.)

The punishment provision is completely rewritten to increase the penalty from 2 years to 5 years except where the object of the conspiracy is a misdemeanor. If the object is a misdemeanor, the maximum imprisonment for a conspiracy to commit that offense, under the revised section, cannot exceed 1 year.

The injustice of permitting a felony punishment on conviction for conspiracy to commit a misdemeanor is described by the late Hon. Grover M. Moscovitz, United States district judge for the eastern district of New York, in an address delivered March 14, 1944, before the section on Federal Practice of the New York Bar Association, reported in 3 Federal Rules Decisions, pages 380-392.

Hon. John Paul, United States district judge for the western district of Virginia, in a letter addressed to Congressman Eugene J. Keogh dated January 27, 1944, stresses the inadequacy of the 2-year sentence prescribed by existing law in cases where the object of the conspiracy is the commission of a very serious offense.

The punishment provision of said section 294 of title 18 was considered for inclusion in this revised section. It provided the same penalties for conspiracy to violate the provisions of certain counterfeiting laws, as are applicable in the case of conviction for the specific viola-

tions. Such a punishment would seem as desirable for all conspiracies as for such offenses as counterfeiting and transporting stolen property in interstate commerce.

A multiplicity of unnecessary enactments inevitably leads to confusion and disregard of law. (See reviser's note under section 493 of this title.)

Since consolidation was highly desirable and because of the strong objections of prosecutors to the general application of the punishment provision of said section 294, the revised section represents the best compromise that could be devised between sharply conflicting views.

A number of special conspiracy provisions, relating to specific offenses, which were contained in various sections incorporated in this title, were omitted because adequately covered by this section. A few exceptions were made, (1) where the conspiracy would constitute the only offense, or (2) where the punishment provided in this section would not be commensurate with the gravity of the offense. Special conspiracy provisions were retained in sections 241, 286, 372, 757, 794, 956, 1201, 2271, 2384 and 2388 of this title. Special conspiracy provisions were added to sections 2153 and 2154 of this title.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

§ 372. Conspiracy to impede or injure officer

If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined under this title or imprisoned not more than six years, or both.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 107-273, div. B, title IV, § 4002(d)(1)(D), Nov. 2, 2002, 116 Stat. 1809.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 54 (Mar. 4, 1909, ch. 321, § 21, 35 Stat. 1092).

Scope of section was enlarged to cover all possessions of the United States. When the section was first enacted in 1861 there were no possessions, and hence the use of the words “State or Territory” was sufficient to describe the area then subject to the jurisdiction of the United States. The word “District” was inserted by the codifiers of the 1909 Criminal Code.

AMENDMENTS

2002—Pub. L. 107-273 substituted “under this title” for “not more than \$5,000”.

§ 373. Solicitation to commit a crime of violence

(a) Whoever, with intent that another person engage in conduct constituting a felony that has as an element the use, attempted use, or threatened use of physical force against property or against the person of another in violation of the laws of the United States, and under circum-

stances strongly corroborative of that intent, solicits, commands, induces, or otherwise endeavors to persuade such other person to engage in such conduct, shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half of the maximum fine prescribed for the punishment of the crime solicited, or both; or if the crime solicited is punishable by life imprisonment or death, shall be imprisoned for not more than twenty years.

(b) It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited. A renunciation is not “voluntary and complete” if it is motivated in whole or in part by a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective. If the defendant raises the affirmative defense at trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

(c) It is not a defense to a prosecution under this section that the person solicited could not be convicted of the crime because he lacked the state of mind required for its commission, because he was incompetent or irresponsible, or because he is immune from prosecution or is not subject to prosecution.

(Added Pub. L. 98-473, title II, § 1003(a), Oct. 12, 1984, 98 Stat. 2138; amended Pub. L. 99-646, § 26, Nov. 10, 1986, 100 Stat. 3597; Pub. L. 103-322, title XXXIII, § 330016(2)(A), Sept. 13, 1994, 108 Stat. 2148.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 inserted “(notwithstanding section 3571)” before “fined not more than one-half”.

1986—Subsec. (a). Pub. L. 99-646 substituted “property or against the person of another” for “the person or property of another” and inserted “life imprisonment or” before “death”.

CHAPTER 21—CONTEMPTS

Sec.	
401.	Power of court.
402.	Contempts constituting crimes.
403.	Protection of the privacy of child victims and child witnesses.

AMENDMENTS

1990—Pub. L. 101-647, title II, § 225(b)(2), Nov. 29, 1990, 104 Stat. 4806, added item 403.

1949—Act May 24, 1949, ch. 139, § 8(a), (b), 63 Stat. 90, struck out “CONSTITUTING CRIMES” in chapter heading and substituted “Contempts constituting crimes” for “Criminal contempts” in item 402.

§ 401. Power of court

A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as—

(1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

(2) Misbehavior of any of its officers in their official transactions;

(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

Appendix B.1
Table of Federal Campaign Finance
Prosecutions 2007-2017

Federal Election Campaign Finance Prosecutions 2007-2017

The enclosed table provides an overview of 38 federal election convictions obtained by the Public Integrity Section (PIN)¹ of the U.S. Department of Justice between 2007 and 2017. PIN reviews all major election crime investigations throughout the country and prosecutes violators. Of the 38 defendants whose convictions are detailed below, 25 were sentenced to terms of imprisonment, and of those, 11 were for a term of one year or more. For each case, we provide the year of conviction, the names of those convicted, a summary of the offense(s) they committed, and the sentence(s) imposed.

Campaign finance violations frequently yield charges under the following statutes:

- Federal Elections Campaign Act (FECA)², which
 - Makes it a crime to knowingly and willfully³ contribute to “any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, in excess of [\$2,700]”⁴;
 - Makes it a crime to knowingly and willfully make a corporate contribution in connection with any election to any federal office and bans “any officer or any director of any corporation from consenting to any such contribution”⁵; and
 - Requires the treasurer of the principal campaign committee for a candidate to report certain contributions and expenditures to the Federal Election Commission (FEC).⁶
- 18 U.S.C. § 1519, which prohibits making a false record with the intent to obstruct “the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States.”
- 18 U.S.C. § 1001, which prohibits making false statements in any matter within the jurisdiction of the any of the three branches of the federal government.
- 18 U.S.C. § 371, which prohibits two or more persons to conspire either to commit any offense against the United States or to defraud the United States.

¹ *Federal Prosecution of Election Offenses*, 8th edition, ed. Richard C. Pilger (Washington, DC: U.S. Department of Justice, 2017), <https://www.justice.gov/criminal/file/1029066/download>.

² 52 U.S.C. § 30101 *et seq.*

³ 52 U.S.C. § 30109(d).

⁴ 52 U.S.C. § 30116(a).

⁵ 52 U.S.C. § 30118.

⁶ 52 U.S.C. § 30104(a)(1).

Chart of Federal Election Convictions 2007-2017

Year	Person(s) Convicted	Crime ⁷	Sentence
2007	Monica J. Cash	<p>Cash was a former office manager of Women's Campaign Fund (WCF). Cash had pleaded guilty to committing bank fraud, dealing in a forged security, and making false statements. Between July 30, 2001, and December 2003, Cash embezzled approximately \$83,050 in cash from WCF by drafting 58 WCF checks made payable to "Monica Cash" or "Cash" and forging the signatures of her supervisors. As a result of her embezzlement scheme, Cash willfully caused WCF's treasurer to unwittingly file periodic reports with the FEC that Cash knew were false.⁸</p> <p>(<i>US v. Cash</i>, No. 07-cr-64, District of Columbia District Court)</p>	8 months imprisonment, 8 months home confinement; \$83,050 in restitution; 3 years supervised release
2007	David B. LeBlanc	<p>LeBlanc, former President and CEO of a private health care company located in Plano, Texas, pleaded guilty to illegally contributing approximately \$50,000 in corporate money over a five-year period to federal political campaigns in violation of FECA. During April 1997 through December 2002, LeBlanc and the company's Director of Government Relations, Donald M. Boucher, obtained corporate funds and then used those funds to make approximately \$50,000 in prohibited corporate contributions to political committees, using their individual names. LeBlanc obtained funds for these contributions, in part, by his approving periodic bonus payments for Boucher, a portion of which Boucher would return to LeBlanc.⁹</p> <p>(<i>US v. LeBlanc</i>, No. 06-mj-91, District of Columbia District Court)</p>	\$100,000 fine; 1 year probation
2007	Donald M. Boucher	<p>Boucher, Director of Government Relations for the private health care company discussed above, pleaded guilty to causing the submission of false statements to the FEC. Boucher, who reported to the President of the company, David LeBlanc, worked with LeBlanc in funneling corporate money, under the guise of using their own names, to federal political campaigns. Boucher subsequently caused numerous political committees to submit materially false statements to the FEC.¹⁰</p> <p>(<i>US v. Boucher</i>, No. 06-cr-62, District of Columbia District Court)</p>	\$50,000 fine; 1 year probation

⁷ The excerpts in the "Crime" category of the table are taken directly from the annual 'Reports to Congress on the Activities and Operations of PIN', unless otherwise noted.

⁸ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2007 60 (2007), available at <https://www.justice.gov/sites/default/files/criminal/legacy/2013/10/22/2007-Annual-Report.pdf>.

⁹ *Id.* at 62.

¹⁰ *Id.*

Year	Person(s) Convicted	Crime	Sentence
2007	Kenneth Phelps	Phelps, a former deputy manager and treasurer for Lockheed Martin Corporation, pleaded guilty to wire fraud and making false statements. From January 2002 to December 2003, Phelps carried out a scheme in which he took Lockheed PAC checks, totaling approximately \$160,000, and, instead of writing the checks to federal political candidates or campaigns, wrote them to himself. Phelps then forged the signatures of two Lockheed PAC executives, who had signatory authority, and deposited those checks into his personal bank account for his own use. He then took further steps to evade detection of his theft by manipulating information in a computer system and falsifying information to the Federal Election Commission. ¹¹ (<i>Us. V. Phelps</i> , No. 07-cr-102, District of Columbia District Court)	16 months of imprisonment; 3 years of supervised release; \$163,115.53 in restitution
2008	Marcus T. Belk	Belk, a former United States Senate candidate from South Carolina, was convicted for failing to report to the FEC a contribution of \$15,000 from the Ford Motor Company Civic Action Fund, as required, and converting these funds to his personal use. The contribution had been sent to Belk in his capacity as treasurer of an entity called the National Congressional Campaign Committee, one of four political committees that Belk had registered with the FEC the previous year. The investigation also disclosed that he had submitted numerous false FEC reports that exaggerated the contribution amounts given to his campaign. ¹² (<i>US v. Belk</i> , No. 08-mj-15, District of Columbia District Court)	37 months of probation; 100 hours of community service; \$15,000 restitution
2008	David Therrell Collier and Robert Howell Price III	Collier and Price admitted that they had been engaged in business activities with Indian Tribe A, a federally recognized tribe of Native Americans located in Rock Hill, South Carolina, and were seeking to obtain expanded gambling rights for the Tribe through legislative changes. They decided to make political contributions to candidates for federal office and elected officials who might support the necessary changes. Collier and Price admitted that, for approximately a four-year period, they disguised \$66,500 in campaign contributions by recruiting, family members, business associates, and their spouses to make political contributions. Those individuals then were reimbursed by Indian Tribe A. As a result of the actions of these defendants in disguising the contributions, numerous political committees submitted materially false statements to the FEC. The political committees identified the contributors as these individuals rather than Indian Tribe A. ¹³ (<i>US v. Collier et al</i> , No. 07-cr-182, District of Columbia District Court)	Collier: 5 years of probation; 120 days of electronic monitoring; \$5,000 fine; 300 hours of community service Price: 5 years of probation; \$1,000 fine; 100 hours of community service

¹¹ *Id.*

¹² U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2008 48-9 (2008), available at <https://www.justice.gov/sites/default/files/criminal/legacy/2013/10/22/2008-Annual-Report.pdf>.

¹³ *Id.* at 49.

Year	Person(s) Convicted	Crime	Sentence
2009	See below for individual defendant names	Six defendants were sentenced for their participation in a scheme involving the resident commissioner and gubernatorial campaigns of a former governor of Puerto Rico. Aníbal Acevedo Vilá, former Puerto Rico governor, and Luisa Inclán Bird, a legal advisor for the San Juan resident commissioner office when Acevedo Vilá served as resident commissioner, were acquitted by jury on March 20, 2009, of all criminal charges related to the scheme. Velasco Mella, Velasco Escardille, and Colón Rodríguez participated in a scheme to defraud the United States and violate FECA provisions by having Puerto Rico and Philadelphia-area businessmen make illegal and unreported contributions to pay off large and unreported debts stemming from the former governor's 2000 campaign for resident commissioner of the Commonwealth of Puerto Rico. The scheme involved soliciting, accepting, and then reimbursing illegal conduit contributions from family members and staff of the candidate. Conduit contributions are illegal campaign contributions made by one person in the name of another person. Payments were made principally to the campaign's public relations firm. These activities continued with the former governor's 2004 gubernatorial campaign in order to raise and spend far more than the Puerto Rican law permitted. As part of this scheme, fundraising was not reported, and vendor payments were left unrecorded. Puerto Rico businessmen used large amounts of money from their personal or corporate funds to pay for large and unreported debts to the campaign's public relations firm. Transactions were made in cash to keep contributions and vendor payments concealed from the Puerto Rico Treasury Department and the public. For many of the collaborator payments the public relations company created fake invoices to make the payments appear to be legitimate business expenses of the collaborators' companies. As finance director for the 2004 gubernatorial campaign, Nazario Franco became aware of this illegal activity and pleaded guilty for failing to report it. González Freyre pleaded guilty to making a false statement during the federal investigation into his illegal \$50,000 contribution to the 2004 gubernatorial campaign. In addition, Salvatore Avanzato directed employees, family, and friends to make campaign contributions to Acevedo Vilá that totaled approximately \$140,000. Avanzato also paid for expensive dinners and the cost of a hotel fund-raiser for the benefit of Vilá. These payments were made to influence and to gain access to Vilá for the furthering of Avanzato's business interests and those of his clients. ¹⁴	See below for each defendant
2009	Jorge Velasco Mella	Velasco Mella pleaded guilty to conspiracy to violate FECA. Velasco Mella worked in the San Juan resident commissioner's office and assisted in handling campaign contributions. ¹⁵ (<i>US v. Acevedo-Vila et al</i> , No. 08-cr-36, District Court of Puerto Rico)	3 years of probation, including 12 months of home detention

¹⁴ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2009 46-8 (2009), *available at* <https://www.justice.gov/sites/default/files/criminal/legacy/2013/10/22/2009-Annual-Report.pdf>.

¹⁵ *Id.*

Year	Person(s) Convicted	Crime	Sentence
2009	Ramón Velasco Escardille	Escardille pleaded guilty to violating FECA. ¹⁶ <i>(US v. Acevedo-Vila et al, No. 08-cr-36, District Court of Puerto Rico)</i>	3 years of probation, including 12 months of home detention
2009	Edwin Colón Rodríguez	Colón Rodríguez pleaded guilty to making a false statement to the FEC. Colón Rodríguez was the assistant treasurer for the resident commissioner campaign. ¹⁷ <i>(US v. Acevedo-Vila et al, No. 08-cr-36, District Court of Puerto Rico)</i>	12 months and 1 day of imprisonment followed by 3 years of supervised release
2009	José González Freyre	González Freyre pleaded guilty to making a false statement to the FBI and the Internal Revenue Service. González Freyre is the owner of Pan American Grain, a Puerto Rico agricultural company that contributed at least \$50,000 to the former governor's 2004 gubernatorial campaign. ¹⁸ <i>(US v. Acevedo-Vila et al, No. 08-cr-36, District Court of Puerto Rico)</i>	1 year of probation, including 6 months of home detention; \$5,000 fine
2009	Miguel Nazario Franco	Nazario Franco pleaded guilty to misprision of a felony. Nazario Franco, a businessman, volunteered in the finance department of the former governor's 2004 gubernatorial campaign. ¹⁹ <i>(US v. Acevedo-Vila et al, No. 08-cr-36, District Court of Puerto Rico)</i>	1 year of probation, including 6 months of home detention; \$5,000 fine
2009	Salvatore Avanzato	Avanzato pleaded guilty to conspiracy. ²⁰ <i>(US v. Acevedo-Vila et al, No. 08-cr-36, District Court of Puerto Rico)</i>	1 year of probation; \$5,000 fine
2009	Marvin I. Block	Marvin I. Block, a Philadelphia-area businessman and lawyer, pleaded guilty to illegal campaign contributions. (related to above case) ²¹ <i>(US v. Acevedo-Vila et al, No. 08-cr-36, District Court of Puerto Rico)</i>	\$3,000 fine

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 48.

Year	Person(s) Convicted	Crime	Sentence
2009	Robert R. Feldman	Feldman, a Philadelphia-area political and business consultant, was designated by Acevedo Vilá as his United States campaign finance chairman for the resident commissioner campaign and who assisted with obtaining conduit contributions, pleaded guilty to making illegal campaign contributions. (related to above case) ²² (<i>US v. Acevedo-Vila et al</i> , No. 08-cr-36, District Court of Puerto Rico)	\$6,000 fine
2009	Cándido Negrón Mella	Cándido Negrón Mella, a Philadelphia businessman who was designation by Acedvedo Vilá as his United States deputy campaign finance chairman for the resident commissioner campaign and who also assisted with obtaining conduit contributions, pleaded guilty to conspiracy (related to above case). ²³ (<i>US v. Acevedo-Vila et al</i> , No. 08-cr-36, District Court of Puerto Rico)	5 months of imprisonment; 7 months of supervised release; \$14,000 fine
2009	Jerry Pierce-Santos	Pierce-Santos, a former assistant secretary of the United States Department of Housing and Urban Development, pleaded guilty on May 27, 2009, to illegally making conduit contributions to a candidate seeking federal office. Pierce-Santos, the president of the Washington lobbying firm Interamerica Inc., allegedly made \$17,000 in conduit contributions to a candidate seeking election to federal office. He allegedly sought assistance from ten individuals, who made between \$1,000 and \$2,000 each in contributions to the candidate. Pierce-Santos allegedly reimbursed these individuals for their contributions. The individual contribution limit at that time was \$2,000 for a candidate seeking election to federal office. ²⁴ (<i>US v. Pierce-Santos</i> , No. 09-cr-14, District of Columbia District Court)	3 years probation; special assessment of \$100
2009	Melissa Thomas	Thomas, a former PAC contractor, was employed by a fundraising consulting firm that managed the bank account of a PAC. The firm's owner also served as the PAC's treasurer. Thomas was involved in a scheme to embezzle more than \$17,000 from the PAC. She was responsible for accounting for checks received to and dispersed from the PAC's bank account and for reconciling the monthly bank statements. Thomas wrote ten checks from the PAC's bank account, made out to either herself or to her employer, that she fraudulently signed with the treasurer's name. Thomas then deposited these checks into her personal bank account, thereby obtaining approximately \$17,825 to which she was not entitled. (<i>US v. Thomas</i> , No. 09-cr-17, District of Columbia District Court)	60 months of probation; \$216,360.12 in restitution

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 49.

Year	Person(s) Convicted	Crime	Sentence
2010	Paul Magliocchetti	<p>Magliocchetti, the founder and president of a lobbying firm called PMA Group Inc. (PMA), pleaded guilty on September 24, 2010, to making hundreds of thousands of dollars in illegal campaign contributions in order to enrich himself by increasing his firm's influence, power, and prestige among elected public officials. He had been charged with four counts of making illegal campaign contributions in the name of another; four counts of making illegal campaign contributions from a corporation; and three counts of causing federal campaigns to unwittingly make false statements to the FEC. He pled guilty to three counts: making false statements, making contributions in the name of another, and making corporate contributions. Magliocchetti admitted that from 2005 through 2008 he made illegal contributions through straw donors to scores of federal campaign committees, which in fact were actually paid for by Magliocchetti or PMA, rather than the named donor. Magliocchetti concealed from the FEC and the public the fact that he and PMA were the true source of the funds for these illegal federal campaign contributions, thus causing the recipient campaigns to unwittingly file false reports with the FEC. At the same time, Magliocchetti ensured that he and PMA received credit for these contributions from the campaigns and candidates by using family members, PMA employees, and others associated with Magliocchetti as the conduits, and by hosting fund-raising events in which he or his associates delivered the contributions.²⁵</p> <p>(<i>US v. Magliocchetti</i>, No. 10-cr-286, Virginia Eastern District Court)</p>	27 months imprisonment; \$75,000 fine
2010	Mark Magliocchetti	<p>In connection with this investigation, Mark Magliocchetti, Paul Magliocchetti's son, pleaded guilty on August 5, 2010, to making illegal corporate campaign contributions. Mark Magliocchetti admitted to receiving payments from an individual and a company (subsequently identified as Paul Magliocchetti and PMA) with the understanding that those monies were to be used for federal campaign contributions. The amount of contributions made by Mark Magliocchetti and his wife, and funded by the individual and the company, exceeded \$120,000.²⁶</p> <p>(<i>US v. Magliocchetti</i>, No. 10-mj-534, Virginia Eastern District Court)</p>	14 days of imprisonment; 5 ½ months of home confinement

²⁵ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2010 25 (2010), available at <https://www.justice.gov/sites/default/files/criminal/legacy/2013/10/22/2010-Annual-Report.pdf>.

²⁶ *Id.* at 26.

Year	Person(s) Convicted	Crime	Sentence
2011	Evan H. Snapper	<p>Former wealth manager Evan H. Snapper pleaded guilty to causing a presidential campaign committee to submit false statements to the FEC. Snapper knowingly and willfully caused the Hillary Clinton for President Committee to file materially false reports with the FEC, in which a political contribution from one individual was misrepresented as having come from twenty-one individuals. The individual was a client of Snapper, who Snapper knew to support the candidate. Snapper admitted that in March 2008, he informed the individual of a fundraising concert in New York City to benefit the committee. The individual proposed to reimburse people he convinced to buy tickets for the concert. Snapper knew this to be illegal, but nevertheless coordinated the reimbursement payments. Snapper further admitted that he took steps to conceal the true purpose of these payments as reimbursements for political contributions, including falsifying the account ledgers of his client. All told, Snapper caused the source of \$48,300 in individual contributions to the committee to be falsely reported to the FEC. Snapper also admitted to causing the source of \$13,800 in individual contributions to a different candidate's committees to be falsely reported to the FEC in 2007.²⁷</p> <p>(<i>US v. Snapper</i>, No. 10-cr-325, District of Columbia District Court)</p>	3 years' probation.
2012	Timothy Mobley and Timothy Hohl	<p>On September 27, 2012, Timothy Mobley pleaded guilty to making illegal conduit and illegal corporate campaign contributions, and Timothy Hohl pled guilty to three counts of aiding and abetting those illegal contributions. From 2006 to 2008, Mobley made campaign contributions in excess of the limits established by FECA by recruiting his employees to make contributions in their own names and later reimbursing them for their contributions. Furthermore, Mobley admitted reimbursing these contributions with corporate funds, and attempting to disguise reimbursements as bonuses or advances. All told, Mobley admitted to reimbursing a total of \$10,000 in contributions to the Republican Party of Florida, and over \$84,000 in contributions to the campaign of an unnamed federal elected official. Hohl admitted that while working as an accountant for Mobley and his business entities from 2006 to 2008, he aided and abetted Mobley's scheme to make the illegal excessive contributions. Hohl further admitted that he helped Mobley reimburse other conduits, and that he sought and accepted reimbursement for his own contributions and those of his wife.²⁸</p> <p>(<i>US v. Mobley</i>, No. 12-cr-150, Florida Middle District Court; <i>US v. Hohl</i>, No. 12-cr-149, Florida Middle District Court)</p>	<p>Mobley: 3 years' probation; \$200,000 fine</p> <p>Hohl: \$15,000 fine</p>

²⁷ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2011 23 (2011), available at <https://www.justice.gov/sites/default/files/criminal/legacy/2013/10/22/2011-Annual-Report.pdf>.

²⁸ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2012 21 (2012), available at <https://www.justice.gov/sites/default/files/criminal/legacy/2013/11/14/2012-Annual-Report.pdf>.

Year	Person(s) Convicted	Crime	Sentence
2012	Paula Noble; George Daniel Strong; Joseph Strong; Richard L. Turner; John L. Turner, Arch Turner; Darrell Raleigh	<p>Arch Turner was the school superintendent in Breathitt County, Kentucky. An investigation into vote-buying in the May 2010 primary election showed that Turner organized and managed a scheme to pay voters to cast ballots in favor of state candidates Turner backed. In addition to organizing the scheme, Turner also provided much of the money used to pay voters. As a result of the investigation, seven defendants pled guilty. Paula Noble, George Daniel Strong, Joseph Strong, Richard L. Turner, co-conspirators in the vote-buying scheme, were charged by indictment in 2011. On April 12, 2012, George Daniel Strong, Joseph Strong, and Richard Turner pled guilty. On May 24, 2012, Paula Noble also pled guilty. Arch Turner and co-conspirator John L. Turner were charged by indictment on April 17, 2012; John L. Turner pled guilty on June 13, 2012, and Arch Turner pled guilty on July 24, 2012. Darrell Raleigh, another co-conspirator, was charged by information and pled guilty on June 14, 2012. All defendants were sentenced in 2012.²⁹</p> <p>(<i>US v. Turner et al</i>, No. 12-cr-30, Kentucky Eastern District Court)</p>	<p>Arch Turner: 24 months imprisonment; 1 year of supervised release; \$250,000 fine</p> <p>Paula Noble: 1 day in prison; supervised release of 1 year; \$100 assessment fee</p> <p>George Daniel Strong and Joseph Strong: 3 months imprisonment; 1 year of supervised release; \$100 assessment fee.</p> <p>Richard L. Turner: 3 months imprisonment; 2 years of supervised release; \$100 assessment fee</p> <p>Darrell Raleigh: 4 months imprisonment; 1 year of supervised release, \$100 assessment fee</p> <p>John L. Turner: 2 years' probation; \$100 fine</p>

²⁹ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2012 22 (2012), available at <https://www.justice.gov/sites/default/files/criminal/legacy/2013/11/14/2012-Annual-Report.pdf>.

Year	Person(s) Convicted	Crime	Sentence
2012	Michael Salyers; Earl Young; Naomi Johnson; Jackie Jennings	<p>Michael Salyers, Earl Young, Naomi Johnson, and Jackie Jennings were indicted in the Eastern District of Kentucky on a vote-buying scheme in late 2011. Salyers, who was running for office, pleaded guilty on February 8, 2012, pursuant to a plea agreement in which he admitted paying voters to vote for him in the election. Young, Johnson, and Jennings were involved with recruiting residents to sell their votes and assisting them in getting to the polls to vote. Jennings pled to the indictment on April 9, 2012, the morning of jury selection. Young and Johnson proceeded to trial as scheduled, and on April 11, 2012, they were each convicted of one count of conspiracy to commit vote buying and one count of vote buying.³⁰</p> <p>(<i>US v. Salyers et al</i>, No. 11-cr-143, Kentucky Eastern District Court)</p>	<p>Salyers: 60 days imprisonment; 1 year supervised release</p> <p>Jennings and Young: 3 months imprisonment</p> <p>Johnson: 4 months imprisonment</p>
2013	William P. Danielczyk; Eugene R. Biagi	<p>Danielczyk, the chairman of Galen Capital Corporation, and Eugene R. Biagi, Galen's corporate secretary, pleaded guilty to illegally reimbursing \$186,600 in contributions to the Senate and Presidential campaign committees of a candidate for federal office. According to the indictment, Danielczyk cohosted a September 2006 fundraiser for a candidate's 2006 U.S. Senate campaign and co-hosted a March 2007 fundraiser for the same candidate's 2008 campaign for President of the United States. The indictment further alleges that Danielczyk and Biagi reimbursed the contributions to the 2008 Presidential campaign with corporate funds. As part of the scheme, Danielczyk and Biagi allegedly created and distributed back-dated letters to 15 contributors falsely characterizing reimbursements for contributions as "consulting fees." According to the indictment, Danielczyk and Biagi also created checks to 17 contributors containing a memorandum line falsely stating that the contributor had received and would receive money for certain work. The indictment further alleges that Danielczyk caused the candidate's campaign committee to unwittingly file with the FEC a 2007 report containing false information about the source and amount of contributions to the campaign.³¹</p> <p>(<i>US v. Danielczyk et al</i>, No. 11-cr-85, Virginia Eastern District Court)</p>	<p>Danielczyk: 28 months imprisonment; 2 year supervised release; \$50,000 fine</p> <p>Biagi was sentenced to probation.</p>
2013	Jay Odom	<p>Odom, a Florida resident, pleaded guilty to causing false statements to the FEC in connection with unlawful contributions to the campaign committee of a presidential candidate. Odom admitted that he solicited employees of his business and their family members to make the maximum allowable contributions to the presidential campaign committee. In return, Odom used personal funds to reimburse the donations, totaling \$23,000.³²</p> <p>(<i>US v. Odom</i>, No. 12-cr-76, Florida Northern District Court)</p>	<p>6 months imprisonment; \$46,000 fine</p>

³⁰ *Id.*

³¹ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2013 16 (2013), available at <https://www.justice.gov/sites/default/files/criminal/legacy/2014/09/09/2013-Annual-Report.pdf>.

³² *Id.*

Year	Person(s) Convicted	Crime	Sentence
2013	F. Harvey Whittemore	Whittemore, a Nevada lawyer and lobbyist, was convicted of making more than \$130,000 in illegal campaign contributions to a Senate campaign committee in 2007 and causing false statements to be made to the FEC. In an effort to fulfill a campaign contribution promise to a U.S. Senator, Whittemore concealed unlawful donations to the Senator's reelection campaign by making them through family members, employees, and their spouses. ³³ (<i>US v. F. Whittemore</i> , No. 12-cr-58, Nevada District Court)	2 years imprisonment; \$133,400 fine
2013	Joseph Bigica	Bigica circumvented FECA's limits on the amount of money an individual could lawfully contribute to a federal candidate by having straw contributors who were unlawfully funded and reimbursed by Bigica. Between 2006 and 2009, Bigica made \$98,600 in illegal campaign contributions over the course of more than 30 transactions using straw donors, whom he reimbursed. Bigica's insurance business profited from the brokerage of health insurance plans to, inter alia, municipalities governed by the politicians. ³⁴	60 months imprisonment; 3 years supervised release; \$255,000 fine; \$200 special assessment
2014	Kent Sorenson	Former Iowa State Senator Kent Sorenson pleaded guilty to one count of causing a federal campaign committee to falsely report its expenditures to the FEC and one count of obstruction of justice in connection with the concealed expenditures. Sorenson admitted to taking payments from a presidential campaign in exchange for switching his support and services from one candidate to another. Sorenson initially supported one campaign during the 2012 presidential election, but from October to December 2011, he met and secretly negotiated with a second political campaign to switch his support in exchange for concealed payments amounting to \$73,000, which caused false reporting of expenditures by the second campaign. Sorenson also gave false, recorded testimony to an independent counsel appointed by the Iowa Senate Ethics Committee with the intent to obstruct investigations by the FBI and FEC of the concealed payments to Sorenson. ³⁵ (<i>US v. Sorenson</i> , No. 14-cr-103, Iowa Southern District Court)	15 months imprisonment

³³ *Id.*

³⁴ *United States v. Bigica*, No. 12-318(FSH), 2013 U.S. Dist. LEXIS 3772 (D.N.J. Jan. 10, 2013).

³⁵ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2014 20 (2014), available at <https://www.justice.gov/criminal/file/798261/download>.

Year	Person(s) Convicted	Crime	Sentence
2014	Sant Singh Chatwal	<p>Chatwal, a hotel magnate, pleaded guilty to making more than \$180,000 in federal campaign donations to three candidates through straw donors who he later reimbursed, and to witness tampering. Chatwal admitted using his employees, business associates, and contractors who perform work on his hotels, to solicit campaign contributions on Chatwal's behalf as straw donors in support of various candidates for federal office and PACs, collect these contributions, and pay reimbursements for these contributions, in violation of the Federal Election Campaign Act. Chatwal often arranged for the straw donors to be reimbursed through funds belonging to Chatwal or one of Chatwal's companies. Chatwal further sought to obstruct the grand jury investigation by tampering with a witness, whom he instructed to lie to agents about the conduit scheme.³⁶</p> <p>(<i>US v. Chatwal</i>, No. 14-cr-143, New York Eastern District Court)</p>	\$500,000 fine; Chatwal also agreed to forfeit \$1 million to the United States as part of his plea agreement; 1,000 hours community service
2014	Francisco Garcia, et al.	<p>Campaign manager Francisco "Frankie" Garcia pleaded guilty to conspiring to buy votes and vote-buying. All five of the other campaign workers pleaded guilty to vote-buying. During the election, which included 20 candidates for the presidential election, as well as candidates for various state, county, and local offices, the defendants admitted that they engaged in vote buying to help ensure that a slate of four candidates would maintain its majority control of the Donna School Board.³⁷</p> <p>(<i>US v. Garcia</i>, No. 14-cr-1472, Texas Southern District Court)</p>	Garcia sentenced to a supervised release requiring him to participate in mental health treatment but was later vacated and remanded. No further action.
2015	Walter Reed	<p>Reed solicited campaign funds from donors on the premise that the funds would be used to facilitate his reelection (as district attorney) and then used those funds to pay for personal expenses unrelated to his campaign. Reed was guilty of conspiracy to commit wire fraud and money laundering, as well as substantive counts of wire fraud, money laundering, false statement on income tax return, and mail fraud.³⁸</p>	48 months imprisonment; 2 years supervised release, and total penalty of \$605,244.75

³⁶ *Id* at 19.

³⁷ *Id*.

³⁸ *United States v. Reed*, No. 15-100, 2016 U.S. Dist. LEXIS 729 (E.D. La. Jan. 5, 2016).

Year	Person(s) Convicted	Crime	Sentence
2015	Tyler Harber	<p>Harber, a campaign finance manager and political consultant pleaded guilty for coordinating \$325,000 in federal election campaign contributions by a PAC to a congressional campaign committee and making false statements to the FBI. According to the plea documents, Harber was the Campaign Manager and General Political Consultant for a candidate for Congress in the November 2012 general election. At the same time, Harber participated in the creation and operation of a PAC, which was legally allowed to raise and spend money in unlimited amounts from otherwise prohibited sources to influence federal elections so long as it did not coordinate expenditures with a federal campaign. Harber admitted, among other things, that he made and coordinated expenditures by the PAC to influence the election with \$325,000 of political advertising opposing a rival candidate. The coordination of expenditures made them illegal campaign contributions to the authorized committee of Harber's candidate, and Harber admitted that he knew this coordination of expenditures was an unlawful means of contributing money to a campaign committee. He further admitted that he used an alias and other means to conceal his action from inquiries by an official of the same political party as Harber's candidate. He also admitted that he told multiple lies when interviewed by the FBI concerning his activities.³⁹</p> <p>(<i>US v. Harber</i>, No. 14-cr-373, Virginia Eastern District Court)</p>	24 months imprisonment
2016	Babulal Bera	<p>Bera pleaded guilty to making excessive campaign contributions and making campaign contributions in the name of another in order to exceed campaign contribution limits established by federal law. According to admissions made in connection with his plea, Bera's son was a candidate for a seat in the United States Congress representing California's District 3 in 2010 and District 7 in 2012. Bera admitted that he made the maximum allowable individual contributions to both campaigns and that he solicited friends, family members, and acquaintances to make contributions, which he then reimbursed with his own funds. In all, Bera solicited over 130 improper campaign contributions involving approximately 90 contributors, resulting in over \$260,000 in reimbursed contributions relating to the two campaigns.⁴⁰</p> <p>(<i>US v. Bera</i>, No. 16-cr-97, California Eastern District Court)</p>	12 months and one day imprisonment

³⁹ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2015 20 (2015), available at <https://www.justice.gov/criminal/file/891961/download>.

⁴⁰ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2016 17 (2016), available at <https://www.justice.gov/criminal/file/1015521/download>.

Year	Person(s) Convicted	Crime	Sentence
2016	Jesse R. Benton; John M. Tate; Dimitrios N. Kesari	<p>Benton, Tate, and Kesari, the senior leadership of a 2012 presidential campaign committee, were convicted of conspiracy, causing false records to obstruct a contemplated investigation, causing the submission of false campaign expenditure reports to the Federal Election Commission (FEC), and engaging in a scheme to make false statements to the FEC for their roles in the concealment of campaign expenditures made to secure the endorsement of an Iowa State Senator. According to evidence presented at trial, the defendants negotiated with former Iowa State Senator Kent Sorenson to obtain his support of their candidate in exchange for money. The campaign expenditures to Sorenson were made in monthly installments, ultimately totaling over \$70,000. The defendants concealed the payments by causing them to be recorded, both in campaign accounting records and in filings with the FEC, as campaign-related audio-visual expenditures and by causing them to be funneled through two companies.⁴¹</p> <p>(<i>US v. Benton et al</i>, No. 15-cr-103, Iowa Southern District Court)</p>	<p>Benton & Tate: 2-year probation; 6 months of home confinement with electronic ankle monitoring; 80 hours community service a year; \$10,000 fine; \$400 assessment.</p> <p>Kesari : 3 months imprisonment; 2 years supervised release; 80 hours community service a year; \$10,000 fine; \$400 assessment.</p>
2016	Michael Liberty	<p>Liberty pleaded guilty to making illegal campaign contributions in the names of others. Between May and June 2011, Liberty made \$22,500 in primary contributions through nine employees, associates and family members. The contributions were made to the principal campaign committee of a candidate for President of the United States and were all paid for by Liberty.⁴²</p> <p>(<i>US v. Liberty</i>, No. 16-cr-144, Maine District Court)</p>	4 months imprisonment; 1 year supervised release; \$100,000 fine
2017	Adam Victor	<p>Victor, a New York businessman, pleaded guilty to making illegal political contributions in the names of others to campaign committees of candidates for U.S. President and U.S. Senate in 2011. According to admissions made in connection with his guilty plea, during the 2011 calendar year, Victor made \$17,500 in aggregated contributions through numerous immediate family members and colleagues to the campaign committee of a candidate for President of the United States and a candidate for a U.S. Senate seat in West Virginia. According to the plea, Victor did not reveal to either candidate that he was the true source of the contributions.⁴³</p> <p>(<i>US v. Victor</i>, No. 17-cr-53, District of Columbia District Court)</p>	1 year probation; \$100 special assessment; \$52,500 fine

⁴¹ *Id.*

⁴² *Id* at 18.

⁴³ U.S. DEP'T OF JUSTICE, REPORT TO CONGRESS ON THE ACTIVITIES AND OPERATIONS OF THE PUBLIC INTEGRITY SECTION FOR 2017 20 (2017), available at <https://www.justice.gov/criminal/file/1096306/download>.

Year	Person(s) Convicted	Crime	Sentence
2017	Kenneth Smukler; Donald Jones	<p>Smukler and Jones, both Philadelphia area political consultants, were charged for their roles in a scheme to use a political candidate's campaign funds to make illegal contributions to an opponent's campaign in order to secure that opponent's agreement to drop out of a 2012 congressional primary race. According to allegations in the indictment, Smukler and Jones conspired with former Municipal Court Judge Jimmie Moore, a candidate for the Democratic Party's nomination for the U.S. House of Representatives in 2012, and Moore's campaign manager, Carolyn Cavaness. In or about February 2012, Moore agreed to withdraw from the primary election in exchange for \$90,000 in payments from his opponent's campaign. The payments exceeded the \$2,000 limit on contributions from one campaign to another campaign for primary elections and were paid to a company created by Cavaness for the sole purpose of receiving the funds and using them to repay Moore's campaign debts. The payments to Cavaness' company were routed through political consulting companies run by Jones and Smukler to conceal the nature and source of the funds. Cavaness and Moore previously pleaded guilty on July 25, 2017, and October 3, 2017, respectively, to causing false statements to the FEC. Jones pleaded guilty on December 8, 2017, to making a false statement to the FBI.⁴⁴</p> <p>(<i>US v. Jones et al</i>, No. 17-cr-563, Pennsylvania Eastern District Court)</p>	Sentencing set for March 2019

⁴⁴ *Id.*

Appendix C.1
Cohen Information, *United States v. Cohen*, No. 18-cr-602
(S.D.N.Y Aug. 21, 2018)

ORIGINAL

Judge Pauley

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

MICHAEL COHEN, :

Defendant. :

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INFORMATION

18 Cr. ____ (WHP)

18 CRIM 602

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC#: DATE FILED: AUG 21 2018
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The United States Attorney charges:

BackgroundThe Defendant

1. From in or about 2007 through in or about January 2017, MICHAEL COHEN, the defendant, was an attorney and employee of a Manhattan-based real estate company (the "Company"). COHEN held the title of "Executive Vice President" and "Special Counsel" to the owner of the Company ("Individual-1").

2. In or about January 2017, COHEN left the Company and began holding himself out as the "personal attorney" to Individual-1, who at that point had become the President of the United States.

3. In addition to working for and earning income from the Company, at all times relevant to this Information, MICHAEL COHEN, the defendant, owned taxi medallions in New York City and Chicago worth millions of dollars. COHEN owned these taxi

medallions as investments and leased the medallions to operators who paid COHEN a portion of the operating income.

Tax Evasion Scheme

4. Between tax years 2012 and 2016, MICHAEL COHEN, the defendant, engaged in a scheme to evade income taxes by failing to report more than \$4 million in income, resulting in the avoidance of taxes of more than \$1.4 million due to the IRS.

5. In or about late 2013, MICHAEL COHEN, the defendant, retained an accountant ("Accountant-1") for the purpose of handling COHEN's personal and entity tax returns. After being retained, Accountant-1 filed amended 2011 and 2012 Form 1040 tax returns for COHEN with the Internal Revenue Service ("IRS"). For tax years 2013 through 2016, Accountant-1 prepared individual returns for COHEN and returns for COHEN's medallion and real estate entities. To confirm he had reviewed and approved these returns, both COHEN and his wife signed a Form 8879 for tax years 2013 through 2016, and filed manually for tax year 2012. Each Form 8879 contained an affirmation, "[u]nder penalties of perjury," that COHEN "examined a copy of [his] electronic individual Income tax return and accompanying schedules and statements" and "to the best of [his] knowledge and belief, it is true, correct, and accurately lists all amounts and sources of income [COHEN] received during the tax year."

6. Between 2012 and the end of 2016, MICHAEL COHEN, the defendant, earned more than \$2.4 million in income from a series of personal loans made by COHEN to a taxi operator to whom COHEN leased certain of his Chicago taxi medallions ("Taxi Operator-1"), none of which he disclosed to the IRS.

7. Specifically, in March 2012, pursuant to a loan agreement, Taxi Operator-1 solicited a \$2 million personal loan from MICHAEL COHEN, the defendant, so that Taxi Operator-1 could cover various personal and taxi business-related expenses. On April 28, 2014, Taxi Operator-1 and his wife entered into a new loan agreement with COHEN, increasing the \$2 million loan, the principal of which remained unpaid, to \$5 million. Finally, in 2015, Taxi Operator-1 and his wife entered into an amended loan agreement with COHEN, increasing the principal amount of the loan to \$6 million. Each loan was interest-only, carried an interest rate in excess of 12 percent, and was collateralized by either Chicago taxi medallions or a property in Florida owned by Taxi Operator-1 and his family. COHEN funded the majority of his loans to Taxi Operator-1 from a line of credit with an interest rate of less than 5 percent.

8. For each of the loans, at the direction of MICHAEL COHEN, the defendant, Taxi Operator-1 made the interest payment checks out to COHEN personally, and the checks were deposited in

COHEN's personal bank account, or an account in the name of his wife. COHEN did not provide records that would have allowed Accountant-1 to reasonably identify this income.

9. Pursuant to the terms of the loan agreements between MICHAEL COHEN, the defendant, and Taxi Operator-1, COHEN received more than \$2.4 million in interest payments from Taxi Operator-1 between 2012 and 2016, and reported none of that income to the IRS. COHEN intended to hide the income from the IRS in order to evade taxes.

10. As a further part of the scheme to evade paying income taxes, MICHAEL COHEN, the defendant, also concealed more than \$1.3 million in income he received from another taxi operator to whom COHEN leased certain of his New York medallions ("Taxi Operator-2"). This income took two forms. First, COHEN did not report the substantial majority of a bonus payment of at least \$870,000, which was made by Taxi Operator-2 in or about 2012 to induce COHEN to allow Taxi Operator-2 to operate certain of COHEN's medallions. Second, between 2012 and 2016, COHEN concealed substantial additional taxable income he received from Taxi Operator-2's operation of certain of COHEN's taxi medallions.

11. To ensure the concealment of this additional operator income, MICHAEL COHEN, the defendant, arranged to receive a portion of the medallion income personally, as opposed to having

the income paid to COHEN's medallion entities. Paying the medallion entities would have alerted Accountant-1, who prepared the returns for those entities, to the existence of the income such that it would have been included on COHEN's tax returns.

12. As a further part of his scheme to evade taxes, MICHAEL COHEN, the defendant, also hid the following additional sources of income from Accountant-1 and the IRS:

a. A \$100,000 payment received, in 2014, for brokering the sale of a piece of property in a private aviation community in Ocala, Florida.

b. Approximately \$30,000 in profit made, in 2015, for brokering the sale of a Birkin Bag, a highly coveted French handbag that retails for between \$11,900 to \$300,000, depending on the type of leather or animal skin used.

c. More than \$200,000 in consulting income earned in 2016 from an assisted living company purportedly for COHEN's "consulting" on real estate and other projects.

COUNTS 1 THROUGH 5
(Evasion of Assessment of Income Tax Liability)

The United States Attorney further charges:

13. The allegations contained in paragraphs 1 through 12 are repeated and realleged as though fully set forth herein.

14. From on or about January 1 of each of the calendar years set forth below, through the present, in the Southern District of New York and elsewhere, MICHAEL COHEN, the defendant, who during each calendar year set forth below was married, did willfully and knowingly attempt to evade and defeat a substantial part of the income tax due and owing by COHEN and his wife to the United States by various means, including by committing and causing to be committed the following affirmative acts, among others: preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with the IRS, in or about the month of April of each said calendar year, a U.S. Individual Income Tax Return, Form 1040, for each of the calendar years set forth below, on behalf of himself and his wife, which falsely omitted substantial amounts of income in or about the years listed below.

Count	Tax Year	Unreported Income	Tax Loss
1	2012	\$893,750	\$192,188
2	2013	\$499,400	\$299,229
3	2014	\$670,667	\$232,883
4	2015	\$969,616	\$375,390
5	2016	\$1,100,618	\$395,615

(Title 26, United States Code, Section 7201.)

False Statements to a Bank

The United States Attorney further charges:

15. In or about 2010, MICHAEL COHEN, the defendant, through companies he controlled, executed a \$6.4 million promissory note with a bank ("Bank-1"), collateralized by COHEN's taxi medallions and personally guaranteed by COHEN. A year later, in 2011, COHEN personally obtained a \$6 million line of credit from Bank-1 (the "Line of Credit"), also collateralized by his taxi medallions. By February 2013, COHEN had increased the Line of Credit from \$6 million to \$14 million, thereby increasing COHEN's personal medallion liabilities at Bank-1 to more than \$20 million.

16. In or about November 2014, MICHAEL COHEN, the defendant, refinanced his medallion debt at Bank-1 with another bank ("Bank-2"), which shared the debt with a New York-based credit union (the "Credit Union"). The transaction was structured as a package of individual loans to the entities that owned COHEN's New York medallions, personally guaranteed by COHEN. Following the loans' closing, COHEN's medallion debt at Bank-1 was paid off with funds from Bank-2 and the Credit Union, and the Line of Credit with Bank-1 was closed.

17. In or about 2013, in connection with a successful application for a mortgage from another Bank ("Bank-3") for his

Park Avenue condominium (the "2013 Application"), MICHAEL COHEN, the defendant, disclosed only the \$6.4 million medallion loan he had with Bank-1 at the time. As noted above, COHEN also had a larger, \$14 million Line of Credit with Bank-1 secured by his medallions, which COHEN did not disclose in the 2013 Application.

18. In or around February 2015, MICHAEL COHEN, the defendant, in an attempt to secure financing from Bank-3 to purchase a summer home for approximately \$8.5 million, again concealed the \$14 million Line of Credit. Specifically, in connection with this proposed transaction, Bank-3 obtained a 2014 personal financial statement COHEN had provided to Bank-2 while refinancing his medallion debt. Bank-3 questioned COHEN about the \$14 million Line of Credit reflected on that personal financial statement, because COHEN had omitted that debt from the 2013 Application to Bank-3. COHEN misled Bank-3, stating, in substance, that the \$14 million Line of Credit was undrawn and that he would close it. In truth and in fact, COHEN had effectively *overdrawn* the Line of Credit, having swapped it out for a fully drawn, larger group of loans shared by Bank-2 and the Credit Union upon refinancing his medallion debt. When Bank-3 informed COHEN that it would only provide financing if COHEN closed the Line of Credit, COHEN lied again, misleadingly stating in an

email: "The medallion line was closed in the middle of November 2014."

19. In or around December 2015, MICHAEL COHEN, the defendant, contacted Bank-3 to apply for a home equity line of credit ("HELOC"). In so doing, COHEN again significantly understated his medallion debt.

20. Specifically, in the HELOC application, MICHAEL COHEN, the defendant, together with his wife, represented a positive net worth of more than \$40 million, again omitting the \$14 million in medallion debt with Bank-2 and the Credit Union. Because COHEN had previously confirmed in writing to Bank-3 that the \$14 million Line of Credit had been closed, Bank-3 had no reason to question COHEN about the omission of this liability on the HELOC application. In addition, in seeking the HELOC, COHEN substantially and materially understated his monthly expenses to Bank-3 by omitting at least \$70,000 in monthly interest payments due to Bank-2 on the true amount of his medallion debt.

21. In or about April 2016, Bank-3 approved MICHAEL COHEN, the defendant, for a \$500,000 HELOC. By fraudulently concealing truthful information about his financial condition, MICHAEL COHEN, the defendant, obtained a HELOC that Bank-3 would otherwise not have approved.

COUNT 6
(False Statements to a Bank)

The United States Attorney further charges:

22. The allegations contained in paragraphs 1 through 3 and 15 through 21 are repeated and realleged as though fully set forth herein.

23. From at least in or about December 2015 through at least in or about April 2016, in the Southern District of New York and elsewhere, MICHAEL COHEN, the defendant, willfully and knowingly made false statements for the purpose of influencing the action of a financial institution, as defined in Title 18, United States Code, Section 20, upon an application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, loan, or insurance agreement or application for insurance or a guarantee, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefore, to wit, in connection with an application for a home equity line of credit, COHEN made false statements to Bank-3 about his true financial condition, including about debts for which he was personally liable, and about his cash flow.

(Title 18, United States Code, Sections 1014 and 2.)

Campaign Finance Violations

The United States Attorney further charges:

24. The Federal Election Campaign Act of 1971, as amended, Title 52, United States Code, Section 30101, *et seq.*, (the "Election Act"), regulates the influence of money on politics. At all times relevant to the Information, the Election Act set forth the following limitations, prohibitions, and reporting requirements, which were applicable to MICHAEL COHEN, the defendant, Individual-1, and his campaign:

a. Individual contributions to any presidential candidate, including expenditures coordinated with a candidate or his political committee, were limited to \$2,700 per election, and presidential candidates and their committees were prohibited from accepting contributions from individuals in excess of this limit.

b. Corporations were prohibited from making contributions directly to presidential candidates, including expenditures coordinated with candidates or their committees, and candidates were prohibited from accepting corporate contributions.

25. On or about June 16, 2015, Individual-1 began his presidential campaign. While MICHAEL COHEN, the defendant, continued to work at the Company and did not have a formal title with the campaign, he had a campaign email address and, at various times, advised the campaign, including on matters of interest to

the press, and made televised and media appearances on behalf of the campaign.

26. At all times relevant to this Information, Corporation-1 was a media company that owns, among other things, a popular tabloid magazine ("Magazine-1").

27. In or about August 2015, the Chairman and Chief Executive of Corporation-1 ("Chairman-1"), in coordination with MICHAEL COHEN, the defendant, and one or more members of the campaign, offered to help deal with negative stories about Individual-1's relationships with women by, among other things, assisting the campaign in identifying such stories so they could be purchased and their publication avoided. Chairman-1 agreed to keep COHEN apprised of any such negative stories.

28. Consistent with the agreement described above, Corporation-1 advised MICHAEL COHEN, the defendant, of negative stories during the course of the campaign, and COHEN, with the assistance of Corporation-1, was able to arrange for the purchase of two stories so as to suppress them and prevent them from influencing the election.

29. *First*, in or about June 2016, a model and actress ("Woman-1") began attempting to sell her story of her alleged extramarital affair with Individual-1 that had taken place in 2006 and 2007, knowing the story would be of considerable value because

of the election. Woman-1 retained an attorney ("Attorney-1"), who in turn contacted the editor-in-chief of Magazine-1 ("Editor-1"), and offered to sell Woman-1's story to Magazine-1. Chairman-1 and Editor-1 informed MICHAEL COHEN, the defendant, of the story. At COHEN's urging and subject to COHEN's promise that Corporation-1 would be reimbursed, Editor-1 ultimately began negotiating for the purchase of the story.

30. On or about August 5, 2016, Corporation-1 entered into an agreement with Woman-1 to acquire her "limited life rights" to the story of her relationship with "any then-married man," in exchange for \$150,000 and a commitment to feature her on two magazine covers and publish over one hundred magazine articles authored by her. Despite the cover and article features to the agreement, its principal purpose, as understood by those involved, including MICHAEL COHEN, the defendant, was to suppress Woman-1's story so as to prevent it from influencing the election.

31. Between in or about late August 2016 and September 2016, MICHAEL COHEN, the defendant, agreed with Chairman-1 to assign the rights to the non-disclosure portion of Corporation-1's agreement with Woman-1 to COHEN for \$125,000. COHEN incorporated a shell entity called "Resolution Consultants LLC" for use in the transaction. Both Chairman-1 and COHEN ultimately signed the agreement, and a consultant for Corporation-1, using

his own shell entity, provided COHEN with an invoice for the payment of \$125,000. However, in or about early October 2016, after the assignment agreement was signed but before COHEN had paid the \$125,000, Chairman-1 contacted COHEN and told him, in substance, that the deal was off and that COHEN should tear up the assignment agreement. COHEN did not tear up the agreement, which was later found during a judicially authorized search of his office.

32. *Second*, on or about October 8, 2016, an agent for an adult film actress ("Woman-2") informed Editor-1 that Woman-2 was willing to make public statements and confirm on the record her alleged past affair with Individual-1. Chairman-1 and Editor-1 then contacted MICHAEL COHEN, the defendant, and put him in touch with Attorney-1, who was also representing Woman-2. Over the course of the next few days, COHEN negotiated a \$130,000 agreement with Attorney-1 to himself purchase Woman-2's silence, and received a signed confidential settlement agreement and a separate side letter agreement from Attorney-1.

33. MICHAEL COHEN, the defendant, did not immediately execute the agreement, nor did he pay Woman-2. On the evening of October 25, 2016, with no deal with Woman-2 finalized, Attorney-1 told Editor-1 that Woman-2 was close to completing a deal with another outlet to make her story public. Editor-1, in turn, texted

MICHAEL COHEN, the defendant, that "[w]e have to coordinate something on the matter [Attorney-1 is] calling you about or it could look awfully bad for everyone." Chairman-1 and Editor-1 then called COHEN through an encrypted telephone application. COHEN agreed to make the payment, and then called Attorney-1 to finalize the deal.

34. The next day, on October 26, 2016, MICHAEL COHEN, the defendant, emailed an incorporating service to obtain the corporate formation documents for another shell corporation, Essential Consultants LLC, which COHEN had incorporated a few days prior. Later that afternoon, COHEN drew down \$131,000 from the fraudulently obtained HELOC, discussed above in paragraphs 19 through 21, and requested that it be deposited into a bank account COHEN had just opened in the name of Essential Consultants. The next morning, on October 27, 2016, COHEN went to Bank-3 and wired approximately \$130,000 from Essential Consultants to Attorney-1. On the bank form to complete the wire, COHEN falsely indicated that the "purpose of wire being sent" was "retainer." On or about November 1, 2016, COHEN received from Attorney-1 copies of the final, signed confidential settlement agreement and side letter agreement.

35. MICHAEL COHEN, the defendant, caused and made the payments described herein in order to influence the 2016

presidential election. In so doing, he coordinated with one or more members of the campaign, including through meetings and phone calls, about the fact, nature, and timing of the payments.

36. As a result of the payments solicited and made by MICHAEL COHEN, the defendant, neither Woman-1 nor Woman-2 spoke to the press prior to the election.

37. In or about January 2017, MICHAEL COHEN, the defendant, in seeking reimbursement for election-related expenses, presented executives of the Company with a copy of a bank statement from the Essential Consultants bank account, which reflected the \$130,000 payment COHEN had made to the bank account of Attorney-1 in order to keep Woman-2 silent in advance of the election, plus a \$35 wire fee, adding, in handwriting, an additional "\$50,000." The \$50,000 represented a claimed payment for "tech services," which in fact related to work COHEN had solicited from a technology company during and in connection with the campaign. COHEN added these amounts to a sum of \$180,035. After receiving this document, executives of the Company "grossed up" for tax purposes COHEN's requested reimbursement of \$180,000 to \$360,000, and then added a bonus of \$60,000 so that COHEN would be paid \$420,000 in total. Executives of the Company also determined that the \$420,000 would be paid to COHEN in monthly amounts of \$35,000 over the course of

twelve months, and that COHEN should send invoices for these payments.

38. On or about February 14, 2017, MICHAEL COHEN, the defendant, sent an executive of the Company ("Executive-1") the first of his monthly invoices, requesting "[p]ursuant to [a] retainer agreement, . . . payment for services rendered for the months of January and February, 2017." The invoice listed \$35,000 for each of those two months. Executive-1 forwarded the invoice to another executive of the Company ("Executive-2") the same day by email, and it was approved. Executive-1 forwarded that email to another employee at the Company, stating: "Please pay from the Trust. Post to legal expenses. Put 'retainer for the months of January and February 2017' in the description."

39. Throughout 2017, MICHAEL COHEN, the defendant, sent to one or more representatives of the Company monthly invoices, which stated, "Pursuant to the retainer agreement, kindly remit payment for services rendered for" the relevant month in 2017, and sought \$35,000 per month. The Company accounted for these payments as legal expenses. In truth and in fact, there was no such retainer agreement, and the monthly invoices COHEN submitted were not in connection with any legal services he had provided in 2017.

40. During 2017, pursuant to the invoices described above, MICHAEL COHEN, the defendant, received monthly \$35,000 reimbursement checks, totaling \$420,000.

COUNT 7
(Causing an Unlawful Corporate Contribution)

The United States Attorney further charges:

41. The allegations contained in paragraphs 1 through 3, and 24 through 40 are repeated and realleged as though fully set forth herein.

42. From in or about June 2016, up to and including in or about October 2016, in the Southern District of New York and elsewhere, MICHAEL COHEN, the defendant, knowingly and willfully caused a corporation to make a contribution and expenditure, aggregating \$25,000 and more during the 2016 calendar year, to the campaign of a candidate for President of the United States, to wit, COHEN caused Corporation-1 to make and advance a \$150,000 payment to Woman-1, including through the promise of reimbursement, so as to ensure that Woman-1 did not publicize damaging allegations before the 2016 presidential election and thereby influence that election.

(Title 52, United States Code, Sections 30118(a) and 30109(d)(1)(A), and Title 18, United States Code, Section 2(b).)

COUNT 8
(Excessive Campaign Contribution)

The United States Attorney further charges:

43. The allegations contained in paragraphs 1 through 3, and 24 through 40 are repeated and realleged as though fully set forth herein.

44. On or about October 27, 2016, in the Southern District of New York and elsewhere, MICHAEL COHEN, the defendant, knowingly and willfully made and caused to be made a contribution to Individual-1, a candidate for Federal office, and his authorized political committee in excess of the limits of the Election Act, which aggregated \$25,000 and more in calendar year 2016, and did so by making and causing to be made an expenditure, in cooperation, consultation, and concert with, and at the request and suggestion of one or more members of the campaign, to wit, COHEN made a \$130,000 payment to Woman-2 to ensure that she did not publicize damaging allegations before the 2016 presidential election and thereby influence that election.

(Title 52, United States Code, Sections 30116(a)(1)(A),
30116(a)(7), and 30109(d)(1)(A), and Title 18, United States
Code, Section 2(b).)

FORFEITURE ALLEGATION

45. As a result of committing the offense alleged in Count Six of this Information, MICHAEL COHEN, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any property constituting or derived from proceeds obtained directly or indirectly as a result of the commission of said offense.

Substitute Assets Provision

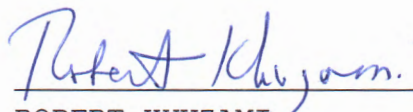
46. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code,

Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 982;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)

A handwritten signature in blue ink, reading "Robert Khuzami", is written over a horizontal line.

ROBERT KHUZAMI

Acting United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

MICHAEL COHEN,

Defendant.

INFORMATION

18 Cr. __ (WHP)

ROBERT KHUZAMI
Acting United States Attorney

Appendix C.2
Gov't Sentencing Memo, United States v. Cohen, No.
18-cr-602 (S.D.N.Y. Dec. 7, 2018)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA :

-v.- : 18 Cr. 602 (WHP)

MICHAEL COHEN, :

Defendant. :

-----X

THE GOVERNMENT’S SENTENCING MEMORANDUM

ROBERT KHUZAMI
Acting United States Attorney for the
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Andrea M. Griswold
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-Of Counsel-

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA :

-v.- : 18 Cr. 602 (WHP)

MICHAEL COHEN, :

Defendant. :

-----X

PRELIMINARY STATEMENT

Defendant Michael Cohen is scheduled to be sentenced on December 12, 2018. The United States Attorney's Office for the Southern District of New York (the "Office") respectfully submits this memorandum in connection with that sentencing and in response to the defendant's sentencing memorandum dated November 30, 2018 ("Def. Mem.").

Cohen, an attorney and businessman, committed four distinct federal crimes over a period of several years. He was motivated to do so by personal greed, and repeatedly used his power and influence for deceptive ends. Now he seeks extraordinary leniency – a sentence of no jail time – based principally on his rose-colored view of the seriousness of the crimes; his claims to a sympathetic personal history; and his provision of certain information to law enforcement. But the crimes committed by Cohen were more serious than his submission allows and were marked by a pattern of deception that permeated his professional life (and was evidently hidden from the friends and family members who wrote on his behalf).

Cohen did provide information to law enforcement, including information that assisted the Special Counsel's Office ("SCO") in ongoing matters, as described in the SCO's memorandum to the Court, and the Office agrees that this is a factor to be considered by the Court pursuant to Title

18, United States Code, Section 3553(a). But Cohen’s description of those efforts is overstated in some respects and incomplete in others. To be clear: Cohen does not have a cooperation agreement and is not receiving a Section 5K1.1 letter either from this Office or the SCO, and therefore is not properly described as a “cooperating witness,” as that term is commonly used in this District.

As set forth in the Probation Department’s Presentence Investigation Report (“PSR”), the applicable United States Sentencing Guidelines (“Guidelines”) range is 51 to 63 months’ imprisonment. This range reflects Cohen’s extensive, deliberate, and serious criminal conduct, and this Office submits that a substantial prison term is required to vindicate the purposes and principles of sentencing as set forth in Section 3553(a). And while the Office agrees that Cohen should receive credit for his assistance in the SCO investigation, that credit should not approximate the credit a traditional cooperating witness would receive, given, among other reasons, Cohen’s affirmative decision not to become one. For these reasons, the Office respectfully requests that this Court impose a substantial term of imprisonment, one that reflects a modest downward variance from the applicable Guidelines range.¹

BACKGROUND

A. Cohen’s Offense Conduct

As described in the PSR, in Criminal Information 18 Cr. 602, as well as in Criminal Information 18 Cr. 850, Cohen committed four separate and serious crimes over the course of several years. These crimes – willful tax evasion, making false statements to a financial institution, illegal campaign contributions, and making false statements to Congress – were distinct in their harms, but bear a common set of characteristics: They each involve deception, and were each

¹ The Probation Department has similarly recommended a modest variance from the Guidelines range, recommending a sentence of 42 months’ imprisonment, albeit for different reasons.

motivated by personal greed and ambition. While Cohen – as his own submission makes clear – already enjoyed a privileged life, his desire for even greater wealth and influence precipitated an extensive course of criminal conduct, described below.

1. Background

Cohen is a licensed attorney and has been since 1992. (PSR ¶ 149.) Until 2007, Cohen practiced as an attorney for multiple law firms, working on, among other things, negligence and malpractice cases. (PSR ¶¶ 156-157.) For that work, Cohen earned approximately \$75,000 per year. (*Id.*) In 2007, Cohen seized on an opportunity. The board of directors of a condominium building in which Cohen lived was attempting to remove from the building the name of the owner (“Individual-1”) of a Manhattan-based real estate company (the “Company”). (PSR ¶ 155.) Cohen intervened, secured the backing of the residents of the building, and was able to remove the entire board of directors, thereby fixing the problem for Individual-1. (*Id.*) Not long after, Cohen was hired by the Company to the position of “Executive Vice President” and “Special Counsel” to Individual-1. (*Id.*) He earned approximately \$500,000 per year in that position. (*Id.*)

In January 2017, Cohen formally left the Company and began holding himself out as the “personal attorney” to Individual-1, who at that point had become the President of the United States. In January 2017, Cohen also launched two companies: Michael D. Cohen and Associates, P.C., a legal practice, and Essential Consultants LLC, a consulting firm. (PSR ¶ 152.) Both businesses were operated from the offices of a major law firm located in New York, and that firm paid Cohen \$500,000 per year as salary. (*Id.*) Cohen also secured a substantial amount of consulting business for himself throughout 2017 by marketing to corporations what he claimed to be unique insights about and access to Individual-1. But while Cohen made millions of dollars from these consulting arrangements, his promises of insight and access proved essentially hollow.

Documents obtained by the Government and witness interviews revealed that Cohen performed minimal work, and many of the consulting contracts were ultimately terminated.

During and subsequent to his employment with the Company, Cohen also maintained additional sources of income. Most significantly, Cohen owned taxi medallions in New York City and Chicago worth millions of dollars. Cohen held these medallions as investments and leased them to operators who paid Cohen a specified monthly rate per medallion. (PSR ¶¶ 158-160.) Cohen has also made substantial investments in real estate and other business ventures. (PSR ¶¶ 161-162.)

2. Cohen's Willful Tax Evasion

Between tax years 2012 and 2016, Cohen evaded taxes by failing to report more than \$4 million in income to the Internal Revenue Service ("IRS"), which resulted in the avoidance of more than \$1.4 million due to the United States Treasury Department. Specifically, Cohen failed to report several different streams of income on his tax returns, which he swore were true and accurate. (PSR ¶¶ 18-19.)

The largest source of undisclosed income was more than \$2.4 million that Cohen received from a series of personal loans that he made to a taxi operator to whom Cohen leased certain of his Chicago taxi medallions ("Taxi Operator-1"), between 2012 and 2015, for a total principal of \$6 million. Each of these loans carried an interest rate in excess of 12 percent. Cohen funded the majority of these loans from a line of credit with an interest rate of less than 5 percent (such that Cohen was earning a substantial spread on the difference between the two loan rates). At Cohen's direction, Taxi Operator-1 made the interest payment checks to Cohen personally. The checks were deposited in Cohen's personal bank account or in an account in his wife's name. In total, Cohen received more than \$2.4 million in interest payments from Taxi Operator-1 between 2012

and 2016. Cohen did not inform his accountant of this arrangement or provide him with documentation in support of these loans and interest payments, and intentionally reported none of that income to the IRS in order to hide it and evade paying taxes. (PSR ¶¶ 20-23.)

Cohen also concealed more than \$1.3 million in income he received from another taxi operator to whom Cohen leased some of his New York taxi medallions (“Taxi Operator-2”). This income took two forms. First, in 2012, Taxi Operator-2 paid Cohen a bonus of at least \$870,000 to induce Cohen to allow him to operate some of Cohen’s taxi medallions. Cohen did not report \$710,000 of this bonus payment. (PSR ¶ 25). In addition, Cohen arranged with Taxi Operator-2 to receive a portion of the medallion income personally – as opposed to having the income paid to Cohen’s medallion entities. That is, while most of the medallion income was paid to Cohen’s medallion entities – whose bank statements were provided to his accountant for the purpose of calculating the income for these entities and preparing Cohen’s tax returns – certain income was provided by Taxi Operator-2 directly to Cohen personally and deposited into his personal account. Cohen again chose not to notify his accountant of this arrangement or identify this additional income to be reported. (PSR ¶ 26).

Finally, Cohen hid several other sources of income from his accountant and the IRS. For example, in 2014, Cohen received \$100,000 for brokering the sale of a piece of property in a private aviation community in Florida. In 2015, Cohen made approximately \$30,000 in profit from the sale of a rare and highly valuable French handbag. In 2016, Cohen received more than \$200,000 in consulting income from an assisted living company. Cohen reported none of this to the IRS or his accountant. (PSR ¶ 27.)

Cohen’s evasion of these taxes was willful. In his sentencing submission and his submissions to the Probation Department in connection with the preparation of the PSR, Cohen

repeatedly attempted to minimize the seriousness of his decision not to report millions of dollars of income over a period of years by blaming his accountant for not uncovering the unreported income. Specifically, Cohen's submission to the Probation Department asserted that "all relevant bank records were provided annually by Cohen to [his accountant] for the relevant years." (PSR at 45). Cohen repeats these efforts to blame his accountant in his sentencing submission:

Michael's case stands out for comparative purposes in that a failure to reasonably identify all income to a tax preparer *who received all client-related bank statements* is quite different in kind from the sophisticated and complex schemes typical of criminal tax evasion cases.

(Def. Mem. at 15) (emphasis added). Cohen's assertions are simply false. As the Government was prepared to prove at trial, the defendant did *not* provide his accountant with "all client-related bank statements" (Def. Mem. at 15 n.8), and the information Cohen did provide to his accountant could not have led his accountant to uncover the unreported income. Between 2014 and 2016, but not for 2012 or 2013, Cohen provided his accountant with certain bank records and instructed his accountant to identify potential tax deductions. Cohen's accountant did not go through Cohen's bank statements looking for potential sources of income, nor did Cohen ever request this. Indeed, Cohen routinely refused to pay for any work by his accountant not specifically approved by Cohen.

In addition, even if Cohen's accountant had gone beyond the agreed scope of the assignment, the accountant was not provided with records that would have allowed him to reasonably identify the unreported income. Specifically, the bank records Cohen provided to his accountant were limited to monthly statements and did not include images of deposited checks or deposit slips. The records thus included reference to certain "deposit" or "credit" entries in particular amounts, but did not include additional detail that would have allowed the accountant to identify the source of these deposits or credits. For example, a page from Cohen's bank records from May 12, 2015 included a \$15,312.50 "deposit." While the Office's investigation identified

this as a loan interest payment from Taxi Operator-1 to Cohen, his accountant had no information indicating the source of the deposit, nor that it concerned interest income that source was paying to Cohen. In sum, any bank records provided by Cohen to his accountant “were insufficient for [the accountant] to identify additional sources of income absent additional information from Cohen.” (PSR at 47.) As the Probation Department noted in evaluating Cohen’s efforts to blame his accountant for Cohen’s voluntary and intentional efforts to evade taxes, “the defendant’s contention that he provided the accountant with all relevant bank records appears to minimize his responsibility in the instant offense and attempts to place the burden on his accountant.” (PSR at 46).

Finally, not only did Cohen fail to identify the unreported income for Accountant-1, on at least two occasions Cohen took steps to conceal the interest income he was receiving from Taxi Operator-1. Specifically, in a memorandum that Cohen’s accountant prepared in 2013 when Cohen became a client, the accountant flagged the fact that a personal financial statement prepared by Cohen’s prior accountant “shows Loans Receivables of \$4,250,000, but there is no related interest income reported on your 2012 personal income tax returns relative to this loan.” Cohen and his accountant did not discuss the “loans receivables” further at the time because Cohen told his accountant he did not ask for and would not pay for the memorandum. Later, when Cohen’s accountant was helping him prepare an updated personal financial statement to provide to Bank-2, discussed below, in connection with the renegotiation of certain medallion loans, Cohen crossed out the “loans receivable” line item altogether from his personal financial statement, leading his accountant to conclude that the entry was mistaken and there was no outstanding personal loan, or that it had been paid off, neither of which was true.

3. Cohen's False Statements to Financial Institutions

In December 2015, Cohen contacted a bank ("Bank-3") to apply for a home equity line of credit ("HELOC"). In his application for the HELOC, Cohen made false statements about his net worth and monthly expenses. Specifically, Cohen failed to disclose more than \$20 million in debt he owed to another bank ("Bank-2"), and also materially understated his monthly expenses to Bank-3 by omitting at least \$70,000 in monthly interest payments due to Bank-2 on that debt. (PSR ¶ 34). These statements were the latest in a series of false statements Cohen made to financial institutions in connection with credit applications.

By way of background, by February 2013, Cohen had obtained a \$14 million line of credit from another bank ("Bank-1"), collateralized by his taxi medallions.² In November 2014, Cohen refinanced this medallion debt at Bank-1 with Bank-2.³ The transaction was structured as a package of individual loans to the entities that owned Cohen's New York medallions, totaling more than \$20 million, and personally guaranteed by Cohen. Following the closing of these loans, the \$14 million line of credit with Bank-1 was closed. (PSR ¶¶ 28-30.)

In 2013, Cohen made a successful application to Bank-3 – the bank to which he later would make false statements in connection with the HELOC application – for a mortgage on his Park Avenue condominium. In that application, Cohen did not disclose the \$14 million line of credit he had with Bank-1 at the time. (PSR ¶ 31.)

In February 2015, Cohen attempted to secure financing from Bank-3 to purchase a summer home for approximately \$8.5 million. Once again, he concealed the \$14 million line of credit,

² Cohen separately maintained a \$6.4 million medallion-related loan with Bank-1. This loan was disclosed in Cohen's subsequent credit applications to Bank-2 and Bank-3.

³ Bank-2 shared the debt with a New York-based credit union, pursuant to a participation agreement. For ease of reference, this memorandum will simply refer to the debt at Bank-2.

which by this point took the form of the \$20 million in refinanced loans with Bank-2. In connection with the summer home application, Cohen had to go to great and deliberate lengths to keep the debt hidden from Bank-3. Specifically, in connection with this proposed transaction, Bank-3 obtained a personal financial statement that Cohen had provided to Bank-2 in connection with the \$20 million refinancing with Bank-2 in 2014. This personal statement listed the \$14 million line of credit Cohen was seeking to refinance and increase with Bank-2. A representative of Bank-3 specifically asked Cohen about the \$14 million line of credit reflected on that statement (which, as noted, had not been reflected on Cohen's 2013 application to Bank-3 for a mortgage). Cohen falsely stated that the \$14 million line of credit was undrawn and that he would close it. In truth, Cohen had effectively overdrawn the line of credit, by swapping it out for a fully drawn, larger \$20 million loan from Bank-2. Moreover, when Bank-3 informed Cohen that it would only provide financing if Cohen closed the line of credit, Cohen lied again, misleadingly stating in an email that "[t]he medallion line was closed in the middle of November 2014." (PSR ¶¶ 32-33.)

This series of lies culminated in Cohen's application for a HELOC. As noted, Cohen failed to disclose the more than \$20 million in refinanced medallion liability on that application, and Bank-3 had no reason to question Cohen about the omission of this liability, because he had affirmatively told the bank that the \$14 line of credit was closed.

In addition to failing to disclose more than \$20 million in medallion liability, Cohen also intentionally omitted the tens of thousands in monthly interest payments he was making on that debt. Cohen's monthly cash flow or "debt ratio" of expenses to income was a core component of Bank-3's underwriting processes that considered an applicant's ability to make loan payments and guard against the bank's need to enter into lengthy foreclosure proceedings. In evaluating prospective loans, Bank-3 typically required that a borrower's monthly expenses represent no more

than 45 percent of his monthly income. Based on the incomplete information contained in the HELOC application, Cohen's debt ratio appeared to be below the benchmark set by Bank-3. Had Cohen truthfully disclosed his expenses, including the extent of the monthly interest payments he was required to make to Bank-3, Cohen's debt ratio would have significantly exceeded the benchmark. In April 2016, Bank-3 approved Cohen for a \$500,000 HELOC, which it would not have approved but for Cohen's concealment of truthful information about his financial condition. (PSR ¶¶ 34-35.)

Notably, each of the foregoing false statements involved Cohen overstating his assets or understating his liabilities, as in these instances it served his purposes to appear to have a higher net worth. In contrast, when it served Cohen's purposes to understate his net worth to financial institutions, he did so by concealing income and assets from his creditors. Specifically, documents and witness interviews from the Government's investigation revealed that in 2017 and early 2018, Cohen wanted Bank-2 to restructure his more than \$20 million in medallion debt on terms more favorable to Cohen. Cohen thus shifted gears, halting monthly payments to Bank-2 and falsely representing orally and in writing that he had a negative net worth and less than \$1.5 million in cash, despite his receipt of nearly \$4 million in "consulting" fees between January 2017 and March 2018. By early April 2018, Bank-2 and Cohen reached a deal in principle, premised on Bank-2's receipt of an updated personal financial statement confirming, in writing, the negative financial information represented by Cohen. On April 9, 2018, the FBI executed a series of search warrants on Cohen, including at his residence, hotel, and office, which put him on notice that he was being investigated for, among other things, bank fraud and explicitly referenced Bank-2. Following the execution of the warrants, counsel for Cohen informed Bank-2 that Cohen would be unable at that time to provide the previously promised updated personal financial statement. To save the deal,

Cohen agreed to post his Park Avenue residence as collateral, which he had previously refused to do. An updated financial statement Cohen provided at closing reflected a positive \$17 million net worth in addition to previously undisclosed liquid assets, a nearly \$20 million increase from the false financial information Cohen had provided to Bank-2 just weeks earlier in the negotiations.

Thus, the false statement to Bank-3 to which Cohen pleaded guilty was far from an isolated event: It was one in a long-series of self-serving lies Cohen told to numerous financial institutions.

4. Cohen's Illegal Campaign Contributions

On approximately June 16, 2015, Individual-1, for whom Cohen worked at the time, began an ultimately successful campaign for President of the United States. Cohen had no formal title with the campaign, but had a campaign email address, and, at various times advised the campaign, including on matters of interest to the press. Cohen also made media appearances as a surrogate and supporter of Individual-1. (PSR ¶ 39).

During the campaign, Cohen played a central role in two similar schemes to purchase the rights to stories – each from women who claimed to have had an affair with Individual-1 – so as to suppress the stories and thereby prevent them from influencing the election. With respect to both payments, Cohen acted with the intent to influence the 2016 presidential election. Cohen coordinated his actions with one or more members of the campaign, including through meetings and phone calls, about the fact, nature, and timing of the payments. (PSR ¶ 51). In particular, and as Cohen himself has now admitted, with respect to both payments, he acted in coordination with and at the direction of Individual-1. (PSR ¶¶ 41, 45). As a result of Cohen's actions, neither woman spoke to the press prior to the election. (PSR ¶ 51).

Cohen Causes the Magazine to Pay Woman-1

In approximately June 2016, a model and actress ("Woman-1") began attempting to sell

her story of her alleged extramarital affair with Individual-1. Woman-1 knew that the story would be of considerable value because of Individual-1's candidacy for president. Woman-1 retained an attorney ("Attorney-1") to represent her in this matter. (PSR ¶ 41).

Attorney-1 then contacted the editor-in-chief ("Editor-1") of a popular tabloid magazine ("Magazine-1") and offered to sell the story to Magazine-1. The Chairman and Chief Executive Officer ("Chairman-1") of the media company that owns Magazine-1 ("Corporation-1") had a prior relationship with Individual-1 and Cohen. In August 2014, Chairman-1 had met with Cohen and Individual-1, and had offered to help deal with negative stories about Individual-1's relationships with women by identifying such stories so that they could be purchased and "killed." Consistent with that offer, after Editor-1 told Chairman-1 about Woman-1's story, they contacted Cohen to tell him about the offer. (PSR ¶¶ 40-41).

At Cohen's urging and with his promise that Corporation-1 would be reimbursed, Editor-1 began negotiating the purchase of Woman-1's story. On August 5, 2016, Corporation-1 entered into an agreement with Woman-1 to acquire the "limited life rights" to the story of her relationship with "any then-married man," in exchange for \$150,000 and a commitment to feature her on two magazine covers and publish over one hundred magazine articles authored by her. The agreement's principal purpose was to suppress Woman-1's story so as to prevent the story from influencing the election. (PSR ¶¶ 41-42).

Between August 2016 and September 2016, Cohen agreed with Chairman-1 to assign the rights to the non-disclosure portion of Corporation-1's agreement with Woman-1 to Cohen for \$125,000. Cohen then incorporated a shell entity called "Resolution Consultants LLC" to be used in the transaction. Both Chairman-1 and Cohen ultimately signed the agreement, and a consultant for Corporation-1, using his own shell entity, provided Cohen with an invoice for the payment of

\$125,000. That assignment was never completed, however. (PSR ¶¶ 43-44).

Cohen Pays Woman-2

On October 8, 2016, an agent for an adult film actress (“Woman-2”) informed Editor-1 that Woman-2 was willing to make public statements and confirm on the record her alleged past affair with Individual-1. Chairman-1 and Editor-1 contacted Cohen and put him in touch with Attorney-1, who was also representing Woman-2. Over the course of the next few days, Cohen negotiated a \$130,000 agreement with Attorney-1 to purchase Woman-2’s silence. Cohen received a signed confidential settlement agreement and a separate side letter from Attorney-1. (PSR ¶ 45).

Cohen did not immediately execute the settlement agreement, nor did he pay Woman-2. On the evening of October 25, 2016, with no final deal in place with Woman-2, Attorney-1 told Editor-1 that Woman-2 was close to completing a deal with a media outlet, under which she would make her story public. Editor-1 texted Cohen that “[w]e have to coordinate something on the matter [Attorney-1 is] calling you about or it could look awfully bad for everyone.” Chairman-1 and Editor-1 then called Cohen through an encrypted telephone application. Cohen agreed to make the payment and then called Attorney-1 to finalize the deal. (PSR ¶ 46).

On October 26, 2016, Cohen emailed an incorporating service to obtain the corporate formation documents for another shell corporation, Essential Consultants, LLC, which he had incorporated a few days prior. That afternoon, he directed that \$131,000 from his HELOC – the same HELOC he had obtained by means of false statements, *see* p. 8-10, *supra* – be deposited into an account he had just opened in the name of Essential Consultants LLC. The next day, Cohen wired \$130,000 from that account to Attorney-1. On the wire form, Cohen falsely indicated that the purpose of the wire was to pay a “retainer.” On November 1, 2016, Cohen received copies of the final, signed confidential settlement agreement and side letter agreement from Attorney-1.

(PSR ¶¶ 47-50).

After the election, Cohen sought reimbursement for election-related expenses, including the \$130,000 payment he had made to Woman-2. Cohen presented an executive of the Company with a copy of a bank statement reflecting the \$130,000 wire transfer. Cohen also requested reimbursement of an additional \$50,000, which represented a claimed payment for campaign-related “tech services.” Executives of the Company agreed to reimburse Cohen by adding \$130,000 and \$50,000, “grossing up” that amount to \$360,000 for tax purposes, and adding a \$60,000 bonus, such that Cohen would be paid \$420,000 in total. Executives of the Company decided to pay the \$420,000 in monthly installments of \$35,000 over the course of a year. (PSR ¶¶ 52-53).

At the instruction of an executive for the Company, Cohen sent monthly invoices to the Company for these \$35,000 payments, falsely indicating that the invoices were being sent pursuant to a “retainer agreement.” The Company then falsely accounted for these payments as “legal expenses.” In fact, no such retainer agreement existed and these payments were not “legal expenses” – Cohen in fact provided negligible legal services to Individual-1 or the Company in 2017 – but were reimbursement payments. Cohen then received the \$420,000 during the course of 2017. (PSR ¶¶ 54-56).

5. Cohen’s False Statements to Congress

Cohen also deliberately made false statements to the Congress. The offense conduct regarding Cohen’s false statements is set forth in the sentencing submission being filed by the SCO in 18 Cr. 850 (WHP). (*See also* PSR ¶¶ 62-73).

B. Cohen’s Meetings with Law Enforcement

Since his guilty plea, Cohen has provided information to various law enforcement entities,

including representatives of this Office and the SCO. As set forth in the submission being filed by the SCO in 18 Cr. 850 (WHP), this Office understands that the information provided by Cohen to the SCO was ultimately credible and useful to its ongoing investigation.

To be clear, neither the SCO nor this Office is making a motion under U.S.S.G. § 5K1.1. No such motion is being made because, as detailed herein, Cohen repeatedly declined to provide full information about the scope of any additional criminal conduct in which he may have engaged or had knowledge. However, this Office acknowledges and agrees that Cohen's provision of information to the SCO in connection with its investigation is a mitigating factor that the Court should consider in imposing sentence. Indeed, Cohen's provision of information to the SCO is the reason that this Office is not seeking a Guidelines sentence here, but rather is acknowledging that a modest variance is appropriate.

While Cohen's provision of information to the SCO merits credit, his description of his actions as arising solely from some "personal resolve" – as opposed to arising from the pendency of criminal charges and the desire for leniency – ignores that Cohen first reached out to meet with the SCO at a time when he knew he was under imminent threat of indictment in this District. As such, any suggestion by Cohen that his meetings with law enforcement reflect a selfless and unprompted about-face are overstated.

With respect to Cohen's provision of information to this Office, in its two meetings with him, this Office assessed Cohen to be forthright and credible, and the information he provided was largely consistent with other evidence gathered. Had Cohen actually cooperated, it could have been fruitful: He did provide what could have been useful information about matters relating to ongoing investigations being carried out by this Office. But as Cohen partially acknowledges, it was *his* decision not to pursue full cooperation, and his professed willingness to continue to provide

information at some later unspecified time is of limited value to this Office, both because he is under no obligation to do so, and because the Office's inability to fully vet his criminal history and reliability impact his utility as a witness.

Indeed, his proffer sessions with the SCO aside, Cohen only met with the Office about the participation of others in the campaign finance crimes to which Cohen had already pleaded guilty. Cohen specifically declined to be debriefed on other uncharged criminal conduct, if any, in his past.⁴ Cohen further declined to meet with the Office about other areas of investigative interest. As the Court is undoubtedly aware, in order to successfully cooperate with this Office, witnesses must undergo full debriefings that encompass their entire criminal history, as well as any and all information they possess about crimes committed by both themselves and others. This process permits the Office to fully assess the candor, culpability, and complications attendant to any potential cooperator, and results in cooperating witnesses who, having accepted full responsibility for any and all misconduct, are credible to law enforcement and, hopefully, to judges and juries. Cohen affirmatively chose not to pursue this process. Cohen's efforts thus fell well short of cooperation, as that term is properly used in this District.⁵

For this reason, Cohen is not being offered a cooperation agreement or a 5K1.1 letter.

⁴ At the time that Cohen met twice with this Office, through his attorneys, he had expressed that he was considering – but not committing to – full cooperation. Cohen subsequently determined not to fully cooperate.

⁵ Cohen's provision of information to the Office of the New York Attorney General ("NY AG") warrants little to no consideration as a mitigating factor. This Office's understanding is that the information Cohen provided was useful only to the extent that he corroborated information already known to the NY AG. More importantly, Cohen provided information to the NY AG not as a cooperating witness who was exposing himself to potential criminal or civil liability but instead as a witness who could have been compelled to provide that testimony. Fulfilling that basic legal responsibility voluntarily does not warrant a reduced sentence – particularly when one waits until he is charged with federal crimes before doing so. Similarly, this Office's understanding is that the New York State Department of Taxation and Financial Services ("NYSDTF") subpoenaed Cohen for information about the payment *of his own state taxes*, and any claimed "cooperation" with NYSDTF appears to consist solely of providing that entity information that they would otherwise have obtained via subpoena.

Within the confines of the SCO investigation itself, the Office does not dispute that Cohen's assistance to the SCO was significant. But because Cohen elected not to pursue more fulsome cooperation with this Office, including on other subjects and on his own history, the Office cannot assess the *overall* level of Cohen's cooperation to be significant. Therefore, the Office submits that, in fashioning a sentence on *its* case, the Court afford Cohen credit for his efforts with the SCO, but credit that accounts for only a modest variance from the Guidelines range and does not approach the credit typically given to actual cooperating witnesses in this District.

APPLICATION OF THE SENTENCING GUIDELINES

A. The Probation Department's Calculation

The Office agrees with the Probation Department's calculation of the total offense level as 24, *see* PSR ¶ 110, and the Criminal History Category as I, *see* PSR ¶ 114. Based upon these calculations, Cohen's advisory Guidelines range is 51 to 63 months' imprisonment. (PSR ¶ 174.)

B. Cohen's Challenges to the Guidelines Calculation

Cohen challenges the Probation Department's calculation on two grounds. (Def. Mem. at 22-26.) Each claim is meritless.

1. The PSR's Grouping Analysis is Correct

Cohen claims that the Probation Department's grouping of the tax evasion counts with the other counts in Information 18 Cr. 602 was incorrect because the counts are not "closely related." This argument is contrary to the text of the applicable Guidelines and controlling Second Circuit precedent.

The PSR groups all eight counts in Information 18 Cr. 602 pursuant to U.S.S.G. § 3D1.2, which provides that "[a]ll counts involving substantially the same harm shall be grouped together

into a single Group.”⁶ Subsection (d) of the Guideline specifies that “substantially the same harm” includes “[w]hen the offense level is determined largely on the basis of the total amount of harm or loss.” U.S.S.G. § 3D1.2(d). The subsection also includes a list of specifically enumerated Guidelines that are to be grouped. *Id.* All three of the Guidelines at issue here – U.S.S.G. § 2B1.1, which applies to the false statements count, § 2C1.8, which applies to the illegal campaign contribution counts, and § 2T1.1, which applies to the tax evasion counts – are included on that list. Thus, using the plain text of the Guidelines, all of the offenses here should be grouped.⁷ The commentary to the Guidelines further supports this conclusion. It states that “counts involving offenses to which different offense guidelines apply are grouped together under subsection (d) if the offenses are of the same general type,” and further specifies that “[t]he ‘same general type’ of offense is to be construed broadly.” U.S.S.G. § 3D1.2 app. n. 6.

Second Circuit case law supports the plain-text reading of the Guidelines. The Second Circuit has held that Section 3D1.2(d) must be used to group tax crimes with fraud and other offenses for which the offense level is principally determined by the amount of loss. *United States v. Gordon*, 291 F.3d 181, 192 (2d Cir. 2002); *see also United States v. Fitzgerald*, 232 F.3d 315, 320 (2d Cir. 2000) (holding that tax evasion, fraud and conversion should be grouped under Section 3D1.2(d) because they are offenses of the same general type); *United States v. Petrillo*,

⁶ The false statements to Congress count charged in 18 Cr. 850 does not group with the other counts, but it does not affect the Guidelines calculation. (PSR ¶ 88).

⁷ Cohen argues that the listing of specific Guidelines in this subsection does not make grouping mandatory. *See* Def. Mem. at 23 (citing *United States v. Napoli*, 179 F.3d 1, 9 n.4 (2d Cir. 1999)). But saying that grouping is not *mandatory* does not mean that it is not *appropriate* – particularly where, as here, the Guidelines in question are each ones in which the offense level is determined largely on the basis of the total amount of loss. *See Napoli*, 179 F.3d at 9 n.4 (citing as an example where grouping would not be appropriate fraud and drug counts, because one measures harm by dollar losses whereas the other measures harm by drug weights). Here, each of the listed offenses measures harm by dollar amounts, meaning that *Napoli*, cited by Cohen, actually supports the Office’s position.

237 F.3d 119, 124-25 (2d Cir. 2000) (holding that tax evasion and mail fraud should be grouped under Section 3D1.2(d)); *United States v. Bernstein*, 43 Fed. App'x 429, 431 (2d Cir. 2002) (affirming grouping of mail fraud and tax fraud offenses under Section 3D1.2(d)).⁸

Cohen attempts to distinguish *Petrillo*, arguing that the tax and mail fraud offenses in that case were factually intertwined and that it was decided at a time when the tax and fraud tables had the same thresholds. (Def Mem. at 24). But even if *Petrillo* were read as limited to the facts of that case, *Gordon* resolves any uncertainty. Analyzing *Petrillo* and *Fitzgerald*, the Second Circuit held in *Gordon* that even if those cases do not require grouping under Section 3D1.2(d), the structure of the Guidelines does in fact “require” that “crimes falling within the special category of quantifiable-harm offenses” be grouped under § 3D1.2(d). *Gordon*, 291 F.3d at 193. That was so even though, at the time, the tax and fraud offense tables no longer had identical thresholds. Nevertheless, the Circuit held that the district court committed clear and obvious error by not applying Section 3D1.2(d) to group the fraud and tax evasion offenses in that case. *Id.*⁹

Moreover, Cohen’s position – that the campaign finance and false statements counts should group, but the tax evasion counts should not – does not make sense. All three sets of counts are offenses for which the offense level is based principally on a quantifiable amount of harm or loss, and qualify as offenses of “the same general type” as each other. But even if the foregoing precedent were set aside, and the phrase “general type” were construed narrowly so that tax crimes were not of the same general type as false statements or campaign finance offenses, then the false

⁸ Cohen argues that the “vast majority of Circuit courts” have held otherwise, citing *United States v. Doxie*, 813 F.3d 1340, 1345 (11th Cir. 2016). But as *Doxie* recognizes, the Second Circuit has concluded that “fraud counts and tax counts should be grouped together under § 3D1.2(d).” *Id.* at n.3. That holding is binding here in the Second Circuit.

⁹ The concurrence in *Gordon* cited by Cohen did not command a majority of the panel and thus is not controlling precedent.

statements and campaign finance crimes would similarly not be of the same “general type.” Indeed, the false statements and campaign finance crimes are no more similar as a general matter or related as a factual matter than the tax crimes are with the other offenses. Thus, there is no rational basis to group some but not all of the offenses in this case.¹⁰

2. The Guidelines Enhancements Are Not “Overlapping”

In the plea agreement, the parties have stipulated that two-level enhancements are warranted for both (i) Cohen’s use of “sophisticated means,” and (ii) his use of his “special skill” as a licensed attorney in a manner that significantly facilitated the commission and concealment of his crimes. The PSR also applies these enhancements. (PSR ¶¶ 92, 94). While not contesting their applicability as a legal matter, Cohen argues that they address overlapping conduct, such that the resulting Guidelines range overstates the offense. (Def. Mem. at 24-25). This argument is meritless. The “sophisticated means” and “special skill” enhancements address different aspects of Cohen’s conduct, and each serves a unique purpose under the Guidelines.

The “sophisticated means” enhancement is addressed to Cohen’s use of complex means to carry out and disguise his crimes. For example, Cohen created shell companies for his commission of the campaign finance crimes, including one shell entity (Resolution Consultants) for use in the transaction with Woman-1 and another shell entity (Essential Consultants) for use in the transaction with Woman-2. (PSR ¶¶ 43, 47.) Cohen also agreed to structure the reimbursement for his payment to Woman-2 in monthly installments, and to disguise those payments by creating fake invoices that referenced a non-existent “retainer.” (PSR ¶ 54.) These actions clearly constitute the use of “sophisticated means,” and Cohen does not and cannot argue to the contrary. *See, e.g.*, U.S.S.G. § 2B1.1 cmt. n. 9(B) (“[c]onduct such as hiding assets or transactions, or both,

¹⁰ If that were the case – that *none* of the counts grouped – then the total offense level would likely be 27, yielding a much higher Guidelines range of 70 to 87 months’ imprisonment.

through the use of fictitious entities [or] corporate shells . . . ordinarily indicates sophisticated means”); *United States v. Amico*, 416 F.3d 163, 169 (2d Cir. 2005) (creation of false bank documents, appraisals, and blueprints constituted sophisticated means); *see also United States v. Regensberg*, 381 F. App’x 60, 62 (2d Cir. 2010) (creation of fake loan documents and fraudulent earnings statements constituted sophisticated means).

By contrast, the “special skill” enhancement is directed at a different aspect of Cohen’s conduct – his use of his education, training, and licensure as an attorney to facilitate and conceal the campaign finance crimes. For example, in order to facilitate the hush money payment to Woman-2, Cohen used his skills and experience as an attorney to negotiate and finalize a settlement agreement with Woman-2, which included both a principal agreement and a separate side letter that was designed specifically to conceal the identities of the parties. (PSR ¶ 45). Moreover, Cohen’s role as the attorney for one of the individuals involved in both settlement agreements allowed him to use his position to attempt to cloak his criminal conduct under the veil of attorney-client privilege. Indeed, in conversations he recorded with reporters, he claimed that beyond his public statements on the matter, he could not answer questions about his role in the payments because of attorney-client privilege. This sort of conduct implicates the “special skill” enhancement. *See, e.g., United States v. Mancuso*, 428 Fed. Appx. 73, 2011 WL 2580228, at *7 (2d Cir. June 30, 2011) (enhancement warranted where attorney used legal skills to create a power of attorney, draft a backdated partnership agreement, and form a company in furtherance of the offense); *United States v. Kelly*, 147 F.3d 172, 178 (2d Cir. 1998) (defendant used his skill as an experienced attorney to prepare an assignment of income in an effort to avoid income tax).

These two enhancements are thus directed at different actions that carry unique harms. For that reason, Cohen’s argument that the enhancements are “overlapping” and should thus be

discounted is meritless. *See, e.g., United States v. Minneman*, 143 F.3d 274, 283 (7th Cir. 1998) (rejecting “double-counting” argument where the special skill adjustment focused on the defendant’s use of his legal training, while the sophisticated means enhancement was based on his use of multiple accounts and corporate names); *United States v. Rice*, 52 F.3d 843, 851 (10th Cir. 1995) (noting that “[t]he purpose of the special skill enhancement is to punish those criminals who use their special talents to commit crime,” whereas the sophisticated means enhancement is “designed to target criminals who engage in complicated criminal activity because their actions are considered more blameworthy and deserving of greater punishment than a perpetrator of a simple version of the crime”).

C. The Probation Department’s Recommendation

Taking into account the factors set forth in 18 U.S.C. § 3553(a), including Cohen’s age and background, the nature and circumstances of his offenses, and the need to avoid unwarranted sentencing disparities, the Probation Department recommends a sentence of 42 months’ imprisonment and a \$100,000 fine. (PSR at 53-54.) The Probation Department’s recommendation does not, however, consider Cohen’s provision of information to the SCO.

DISCUSSION

A. A Substantial Term of Imprisonment Is Warranted

As set forth herein, consideration of the factors set forth in 18 U.S.C. § 3553(a) weighs heavily in favor of a substantial term of imprisonment. In particular, the nature and seriousness of the offenses and the need to promote respect for the law and afford adequate deterrence are especially weighty considerations.

1. The Nature and Seriousness of the Offenses

In his submission, Cohen states that “the facts and circumstances surrounding this case are

unique and unprecedented.” (Def. Mem. at 28-29.) That may be so, but it is not exclusively for the reasons given by Cohen. It is also unique because Cohen managed to commit a panoply of serious crimes, all while holding himself out as a licensed attorney and upstanding member of the bar. His offenses strike at several pillars of our society and system of government: the payment of taxes; transparent and fair elections; and truthfulness before government and in business.

First, Cohen’s commission of two campaign finance crimes on the eve of the 2016 election for President of the United States struck a blow to one of the core goals of the federal campaign finance laws: transparency. While many Americans who desired a particular outcome to the election knocked on doors, toiled at phone banks, or found any number of other legal ways to make their voices heard, Cohen sought to influence the election from the shadows. He did so by orchestrating secret and illegal payments to silence two women who otherwise would have made public their alleged extramarital affairs with Individual-1. In the process, Cohen deceived the voting public by hiding alleged facts that he believed would have had a substantial effect on the election.

It is this type of harm that Congress sought to prevent when it imposed limits on individual contributions to candidates. To promote transparency and prevent wealthy individuals like Cohen from circumventing these limits, Congress prohibited individuals from making expenditures on behalf of and coordinated with candidates. Cohen clouded a process that Congress has painstakingly sought to keep transparent. The sentence imposed should reflect the seriousness of Cohen’s brazen violations of the election laws and attempt to counter the public cynicism that may arise when individuals like Cohen act as if the political process belongs to the rich and powerful.

Cohen’s submission suggests that this was but a brief error in judgment. Not so. Cohen knew exactly where the line was, and he chose deliberately and repeatedly to cross it. Indeed, he

was a licensed attorney with significant political experience and a history of campaign donations, and who was well-aware of the election laws.¹¹ In fact, Cohen publicly and privately took credit for Individual-1's political success, claiming – in a conversation that he secretly recorded – that he “started the whole thing . . . started the whole campaign” in 2012 when Individual-1 expressed an interest in running for President. Moreover, not only was Cohen well aware of what he was doing, but he used sophisticated tactics to conceal his misconduct. He arranged one of the payments through a media company and disguised it as a services contract, and executed the second non-disclosure agreement with aliases and routed the six-figure payment through a shell corporation. After the election, he arranged for his own reimbursement via fraudulent invoices for non-existent legal services ostensibly performed pursuant to a non-existent “retainer” agreement. And even when public reports of the payments began to surface, Cohen told shifting and misleading stories about the nature of the payment, his coordination with the candidate, and the fact that he was reimbursed.

This was not a blind act of loyalty, as Cohen has also suggested. His actions suggest that Cohen relished the status of ultimate fixer – a role that he embraced as recently as May 2018.¹² Cohen was driven by a desire to further ingratiate himself with a potential future President—for whose political success Cohen himself claimed credit—and arranged for the payments in an attempt to increase his power and influence. Indeed, after Cohen caused the media company to

¹¹ Cohen was previously the subject of an FEC complaint for making unlawful contributions to Donald Trump's nascent campaign for the 2012 presidency. The complaint was dismissed for jurisdictional reasons, but it certainly put Cohen on notice of the applicable campaign finance regulations. See *In the Matter of Donald J. Trump, Michael Cohen, et al.*, MUR 6462 (Sept. 18, 2013).

¹² Michael Cohen (@michaelcohen212), Twitter (May 8, 2018, 6:19 PM), <https://twitter.com/michaelcohen212/status/971933570146201600?lang=en> (thanking @CNN “for your accurate depiction of me and my role for our @POTUS @realDonaldTrump! #loyalty #RayDonovan #fixer”). The phrase “#RayDonovan” is a reference to the fictional “fixer” character on the Showtime television crime drama *Ray Donovan*.

make an illegal expenditure, in a secretly recorded meeting Cohen took credit for the payment and assured Individual-1 that he was “all over” the transaction. And after making the payment to the second woman, and after Individual-1 was elected President, Cohen privately bragged to friends and reporters, including in recorded conversations, that he had made the payment to spare Individual-1 from damaging press and embarrassment.

Cohen’s criminal violations of the federal election laws were also stirred, like his other crimes, by his own ambition and greed. During and after the campaign, Cohen privately told friends and colleagues, including in seized text messages, that he expected to be given a prominent role and title in the new administration. When that did not materialize, Cohen found a way to monetize his relationship with and access to the President. Cohen successfully convinced numerous major corporations to retain him as a “consultant” who could provide unique insights about and access to the new administration. Some of these corporations were then stuck making large up-front or periodic payments to Cohen, even though he provided little or no real services under these contracts. Bank records reflect that Cohen made more than \$4 million dollars before the contracts were terminated.

Second, Cohen undertook similar acts of deception in his private life. He concealed significant amounts of income from the IRS, and lied about his financial status in his dealings with banks. These offenses warrant significant punishment. For at least half a decade, Cohen willfully evaded paying taxes. Cohen, who himself studied tax in law school and displayed an awareness of complicated tax laws in real estate transactions, took purposeful steps to avoid paying taxes on millions of dollars in income over a five-year period. He made private loans at double-digit interest rates and did not report the millions of dollars in income it generated. The fact that these loans were cash generators was not lost on Cohen: At one point, he offered to sell the loans to other

investors. Cohen also failed to report hundreds of thousands of dollars in consulting income and legal work, and underreported payments he received from his ownership of taxi medallions.

Cohen's sentencing memorandum attempts to downplay the seriousness of this conduct, labeling it "unsophisticated" because this case does not involve unreported cash transactions, offshore accounts, phony deductions, or obstructive conduct. (Def. Mem. at 14.) But the nature of Cohen's criminal conduct is apparent from the manner in which he dealt with his own accountant: Cohen provided incomplete information to his accountant, lied about the existence or value of certain assets and income sources, and rebuffed questions that would have revealed income he deliberately concealed. Moreover, Cohen's crimes were not ones of necessity. To the contrary, he relied on his unreported income to maintain his opulent lifestyle and purchase luxury items. Indeed, in some years, the amount of money that Cohen spent on expenses – including credit card bills, fine art purchases, and payments for private school – exceeded the gross amount of income listed on Cohen's tax returns.

Third, Cohen similarly flouted his obligation to be truthful in business when seeking financing. To secure loans, Cohen falsely understated the amount of debt he was carrying, and omitted information from his personal financial statements, to induce a bank to lend based on incomplete information. To explain why he submitted a false statement to a bank that failed to disclose more than \$20 million in liabilities as well as tens of thousands in monthly expenses, Cohen notes that it was his private banker who provided Cohen with an inaccurate application, which Cohen failed to correct. But this was no mere error of omission: As noted above, Cohen was specifically asked about the omission, and covered it up by misleadingly telling Bank-3 that the liabilities had been expunged, when in fact they had been re-established at another bank. This false statement was the latest in a series of false statements Cohen had made to this banker and

others. *See* p. 8-11, *supra*. And indeed it was one of these prior false statements – in which Cohen told the banker that he had closed the \$14 million line of credit in question – that led the banker to omit that liability from the draft of his application.

Cohen is loath to acknowledge these false statements to banks. Likewise at his guilty plea proceeding, the Court had to press Cohen to acknowledge that he understood he was lying to a bank. This signals that Cohen’s consciousness of wrongdoing is fleeting, that his remorse is minimal, and that his instinct to blame others is strong. While he has legally accepted responsibility, the Court should consider at sentencing these transparent efforts at minimizing Cohen’s false statements and criminal conduct. As the Probation Department recognized in rejecting these arguments, Cohen is attempting “to lessen [his] culpability and place the burden on Bank-3.” (PSR at 48.)¹³

Finally, Cohen has pled guilty to making false statements to Congress in connection with a congressional investigation. This offense is described in detail in the SCO’s sentencing submission.

Taken alone, these are each serious crimes worthy of meaningful punishment. Taken together, these offenses reveal a man who knowingly sought to undermine core institutions of our democracy. His motivation to do so was not borne from naiveté, carelessness, misplaced loyalty, or political ideology. Rather, these were knowing and calculated acts – acts Cohen executed in

¹³ In a further attempt at undermining the seriousness of this offense, Cohen observes that there has been no monetary loss to any bank. (Def. Mem. at 18.) Financial loss, however, should not be the only measure of the seriousness of the offense. Cohen’s argument fails to recognize the important federal interest at stake, which is reflected in the purpose and history of 18 U.S.C. § 1014. Section 1014 was designed to “protect federally insured institutions from losses stemming from false statements or misrepresentations that mislead the institutions into making financial commitments, advances, or loans,” and thereby to “protect the integrity of the system of credit generated and maintained by federally insured banks.” *United States v. Zahavi*, No. 12 Cr. 288 (JPO), 2012 WL 5288743, at *2 (S.D.N.Y. Oct. 26, 2012). If borrowers obtain loans based on false information, and cannot fulfill their obligations, that can have tremendous negative effects on lenders and the banking system as a whole.

order to profit personally, build his own power, and enhance his level of influence. The nature and seriousness of each of Cohen's crimes warrant a substantial sentence in this case. *See* 18 U.S.C. § 3553(a)(1), (2)(A).

2. The Need to Promote Respect for the Law and to Afford Adequate Deterrence

The need for the sentence to promote respect for the law and to afford adequate deterrence further supports imposition of a significant sentence of imprisonment. Congress provided for strong criminal sanctions as a general deterrent to tax evasion, false statements to financial institutions, and campaign finance violations. Given the magnitude and brazenness of the conduct in this case, the interests of deterrence are best served by the imposition of a substantial term of imprisonment.

Cohen's years-long pattern of deception, and his attempts to minimize certain of that conduct even now, make it evident that a lengthy custodial sentence is necessary to specifically deter him from further fraudulent conduct, whether out of greed or for power, in the future. Certainly, Cohen has no prior convictions, and is well-educated and professionally successful. Generally, such characteristics suggest that a defendant is unlikely to re-offend in the future. But where, as here, the nature, multitude, and temporal span of criminal behavior betray a man whose outlook on life was often to cheat – an outlook that succeeded for some time – his professional history and lack of prior convictions are not a significant mitigating factor.

For much the same reasons, the time-served sentence that Cohen seeks would send precisely the wrong message to the public. General deterrence is a significant factor here. Campaign finance crimes, because they are committed in secret and hidden from the victims, are difficult to identify and prosecute. Nonetheless, they have tremendous social cost, described above, as they erode faith in elections and perpetuate political corruption. Effective deterrence of

such offenses requires incarceratory sentences that signal to other individuals who may contemplate conduct similar to Cohen's that violations of campaign finance laws will not be tolerated. Particularly in light of the public interest in this case, the Court's sentence may indeed have a cognizable impact on that problem by deterring future candidates, and their "fixers," all of whom are sure to be aware of the Court's sentence here, from violating campaign finance laws.

Additionally, a significant sentence of imprisonment would also generally deter tax evasion and other financial crimes by sending the important message that even powerful individuals cannot cheat on their taxes and lie to financial institutions with impunity, because they will be subject to serious federal penalties. This is particularly important in the context of a tax evasion prosecution. Hundreds of billions of dollars are lost annually because people like Cohen – who otherwise take full advantage of all that taxes bring, such as schools, paved roads, transit systems, and Government buildings – shirk their responsibilities as American taxpayers. Meaningful sentences – that is, ones that, through their terms, speak loudly and clearly – must be given in cases like this one so that others are forewarned of the consequences for engaging in tax crimes. As the United States Sentencing Commission has explained, "[b]ecause of the limited number of criminal tax prosecutions relative to the estimated incidence of such violations, deterring others from violating the tax laws is a primary consideration underlying these guidelines. Recognition that the sentence for a criminal tax case will be commensurate with the gravity of the offense should act as a deterrent to would be violators." U.S.S.G. Ch. 2, Part T, intro. Cmt. Where the incidence of prosecution is lower, the level of punishment must be higher to obtain the same level of deterrence. *See generally* Louis Kaplow and Steven Shavell, "Fairness Versus Welfare," 114 Harv. L. Rev. 961, 1225-1303 (2001); *see also United States v. Hassebrock*, 663 F.3d 906, 922 (7th Cir. 2011) (affirming as reasonable a within-Guidelines 32-month sentence for a tax

evader when the district court explained that “a sentence of probation would not promote respect for the law, but encourage people to flaunt it”). Indeed, “[s]tudies have shown that salient examples of tax-enforcement actions against specific taxpayers, especially those that involve criminal sanctions, have a significant and positive deterrent effect.” Joshua D. Blank, *In Defense of Individual Tax Privacy*, 61 Emory L.J. 265, 321 (2011-2012). Our system of voluntary compliance would be undermined if wealthy and successful individuals such as Cohen come to believe that the most severe sanctions that they will face, in the relatively unlikely case that they are caught cheating on their taxes, are the payment of back taxes, interest, and penalties. The Guidelines therefore recognize the harm tax crimes inflict on society and recommend prison sentences for cases like this one.

In sum, the nature of Cohen’s conduct underscores the need for a substantial period of incarceration as a means both to promote respect for the law and to deter future abuses by other individuals seeking improperly to influence the electoral process, evade taxes, or lie to financial institutions. 18 U.S.C. § 3553(a)(2)(A) & (a)(2)(B).

B. Cohen’s Request for a Sentence of Time Served is Meritless

In his submission, Cohen requests a sentence of time served, which would effectively be a sentence of a matter of hours – 99.5% lower than what the Sentencing Guidelines and Probation Department recommend. When considering “the kinds of sentences available,” 18 U.S.C. § 3553(a)(3), this Court should view with great skepticism a request for a non-incarceratory sentence when the Guidelines recommend a substantial prison term. *See United States v. Goldberg*, 491 F.3d 668, 673 (7th Cir. 2007) (“When the guidelines, drafted by a respected public body with access to the best knowledge and practices of penology, recommend that a defendant be sentenced to a number of years in prison, a sentence involving no . . . imprisonment

can be justified only by a careful, impartial weighing of the statutory sentencing factors.”). Cohen presses four principal arguments in support of his request, but none warrants the extraordinary variance that he seeks.

First, Cohen argues that the emotional toll of his convictions on him and his family, the loss of his law license and other business, and civil tax penalties, “amount[] to an alternative form of punishment,” which warrants a sentence of time served. (Def. Mem. at 26.) They do not. Congress, through the Guidelines, has pointedly addressed and rejected this “I’ve been punished enough” argument from privileged citizens who bemoan the collateral consequences of a guidelines sentence to persons like themselves. *See* 28 U.S.C. § 994(d) (“The Commission shall assure that the guidelines and policy statements are entirely neutral as to . . . socioeconomic status of offenders.”); U.S.S.G. § 5H1.10 (socioeconomic status not relevant); *see also* U.S.S.G. § 5H1.2 (vocational skills and education not ordinarily relevant); U.S.S.G. § 5H1.5 (employment record not ordinarily relevant); U.S.S.G. § 5H1.6 (family ties and responsibilities not ordinarily relevant). The federal courts have repeatedly agreed. *See, e.g., United States v. Prosperi*, 686 F.3d 32, 47 (1st Cir. 2012) (“[I]t is impermissible for a court to impose a lighter sentence on white-collar defendants than on blue-collar defendants because it reasons that white-collar offenders suffer greater reputational harm or have more to lose by conviction.”); *United States v. Musgrave*, 761 F.3d 602, 608–09 (6th Cir. 2014) (impermissible for the district court to rely heavily on the fact that the defendant had already “been punished extraordinarily” through years of legal process, the loss of his CPA license, and his felony conviction).

There is nothing about Cohen’s family circumstances warranting the extraordinary sentence that he seeks. On the contrary, rather than a factor warranting any decreased imprisonment, Cohen’s education, resources and opportunities should, in the event that they are

relevant at all, weigh in favor of holding him to an exacting standard. Cohen did not need to commit the crimes that he did, yet he committed them for personal gain. He was motivated in part by greed and the desire to live an opulent and lavish lifestyle. And for all of Cohen's outward rectitude, he has lived a double life, which weighs heavily against a variance. While Cohen has submitted letters describing his good nature, the evidence collected and witnesses interviewed in this investigation paint a decidedly different picture – a picture of someone who was threatening and abusive when he wanted to get his way. For instance, in 2015, Cohen threatened a journalist for investigating a negative story about Individual-1, telling him:

I will make sure that you and I meet one day while we're in the courthouse. And I will take you for every penny you still don't have. And I will come after your [employer] and everybody else that you possibly know. . . . So I'm warning you, tread very fucking lightly, because what I'm going to do to you is going to be fucking disgusting. You understand me?¹⁴

On another call – which Cohen secretly recorded – with bankers from Bank-2 with whom Cohen was seeking to renegotiate his medallion debt on terms more favorable to him, Cohen threatened:

I'm gonna teach [the bank and its government conservator] a lesson they've never seen before in their life. Because I'm gonna hit everybody up with a lawsuit that's gonna spin everyone's head. And I'm looking forward to that, by the way. And I'm not saying it as a threat. It's a fact.

Cohen himself said in an interview in 2011 that, "If you do something wrong, I'm going to come at you, grab you by the neck and I'm not going to let you go until I'm finished."¹⁵ These are just a few of the many examples of Cohen's abuse of both his standing as an attorney and his relationship to a powerful individual – examples of the type of conduct that is repugnant from anyone, let alone an attorney of the bar. They stand in marked contrast to the letters of support for

¹⁴ The full recording is available at: www.npr.org/player/embed/615843930/615845621.

¹⁵ See ABC News, *Meet Michael Cohen* (Apr. 16, 2011), available at: <https://abcnews.go.com/Politics/donald-trumps-political-pit-bull-meet-michael-cohen/story?id=13386747>.

Cohen.

On balance, like most others who stand before this Court for sentence, Cohen is neither all good nor all bad. His personal interactions in private life should not be this Court's principal consideration. Rather, it is Cohen's serious crimes that should be the Court's lodestar.

Second, in support of his argument for a time-served sentence, Cohen makes mention of his financial support and fundraising for his children's former school, as well as his support for other charitable causes. (Def. Mem. at 9-11.) But charitable "and similar prior good works are not ordinarily relevant in determining whether a sentence should be outside the applicable guideline range." U.S.S.G. § 5H1.11. For good reason: Prior charitable works, however commendable and extensive, by professionally successful defendants rarely, if ever, are materially mitigating factors at sentencing because courts recognize that it is not extraordinary for such defendants to be involved in charities and to have strong professional and personal relationships. *See, e.g., United States v. Barbera*, No. 02 Cr. 1268 (RWS), 2005 WL 2709112, at *12-13 (S.D.N.Y. Oct. 21, 2005); *see also United States v. Fishman*, 631 F. Supp. 2d 399, 403 (S.D.N.Y. 2009) (a defendant's "good name and good works" should not serve as "the human shield he raises to seek immunity or dramatic mitigation of punishment when he is caught"). Moreover, it is no doubt far easier to give generously to charities when the donor is simultaneously evading the payment of taxes on millions of dollars in income. Cohen was, in effect, donating other people's money. As Chief Judge McMahon has explained, "Using other people's money to do what qualifies as good works by your likes and then suggesting to me that I give you credit for the fact that you didn't use the money to buy a Lamborghini is something that I find and have always found to be contemptible, especially since all too frequently charity is a means to bolster the esteem in which one is held by others." *United States v. Binday*, 12 Cr. 152 (CM), Dkt. 349, at 44-45.

Third, in support of his request for a time-served sentence, Cohen cites several cases in which the defendant received little or no jail time. (Def. Mem. at 15-17, 19-20.) The cases selected by Cohen do not bear any particular factual similarity to the instant case. Indeed, in none of the cases cited by Cohen did the defendant commit the particular array of crimes that Cohen has. As set forth below, the Court can just as easily identify numerous examples of cases where more substantial sentences were imposed. Thus, the cases cited by Cohen do not provide a template for sentencing in this matter, and the Court must decide it based on the particular facts and circumstances of this case.

For instance, Cohen highlights *United States v. Lacy Doyle* as a case in which Judge Carter imposed a non-incarceratory term of four years' probation. Cohen fails, however, to acknowledge that the advisory guidelines range in that case was just 6 to 12 months' imprisonment based on a guilty plea to one count of subscribing to a false and fraudulent tax return for a single year.¹⁶ Cohen also highlights the sentence imposed in the prosecution of Earl Simmons, a tax evasion case in which the defendant received a year of imprisonment. In that case, Judge Rakoff focused on the need for imprisonment in tax evasion cases, regardless of their complexity, to ensure general deterrence: "People who are considering tax evasion . . . greatly exaggerate their chances of getting away with it That is why prison is important." Sent. Tr. at 32, *United States v. Earl Simmons*, 17 Cr. 172 (JSR) (S.D.N.Y. Mar. 23, 2018) (ECF No. 39). While it is true that the methods by which Simmons evaded taxes may have been more complex than here, both men made the calculated decision that they could get away with not paying taxes. Finally, in contrast to Simmons, tax evasion is but one of the crimes for which sentence is to be imposed in this case.

Cohen also overlooks several tax evasion cases in which courts have recently imposed

¹⁶ In addition, because the advisory guidelines in *Doyle* were in Zone B, a term of probation was considered explicitly authorized. U.S.S.G. § 5B1.1(a)(2).

custodial terms. *See United States v. Trupin*, 475 F.3d 71, 76 (2d Cir. 2007) (holding that seven-month prison sentence for multi-year tax evasion scheme with a tax loss of \$1.2 million failed to reflect seriousness of offense, observing that a tax evader, in effect, “steal[s] from his fellow taxpayers through his deceptions”); Sent. Tr. at 22-23, *United States v. Joseph Ciccarella*, 16 Cr. 738 (AKH) (S.D.N.Y. March 3, 2017) (imposing an 18-month sentence for a defendant who caused a tax loss between \$250,000 and \$550,000, noting that “the obligation to pay taxes is basic to our civilization”). Finally, in *United States v. Erwin Mayer*, 09 Cr. 581 (WHP), this Court imposed a custodial term of imprisonment on a cooperating defendant whose level of cooperation was described as “unequaled in [that] case, and essentially in any other white-collar case, in which the[] experienced prosecutors had been engaged.” Sent. Tr. at 32, *United States v. Erwin Mayer*, 09 Cr. 581 (WHP) (S.D.N.Y. Aug. 19, 2014) (ECF No. 849). In imposing a custodial sentence on such a cooperating defendant, this Court noted the “need in these kinds of cases for general deterrence.” (*Id.*)

Cohen also asserts that “numerous allegations of unpaid taxes are routinely asserted by the IRS outside of the criminal context,” and cites to news articles about individuals who failed to pay their taxes. (Def. Mem. at 16-17.) But Cohen did not just fail to pay assessed taxes. He willfully evaded taxes by hiding entire income streams over a period of years. His acts were fraudulent and evasive, and not the product of mistake, negligence, or a failure of his accountant. Cohen’s suggestion that his case should have been handled outside the criminal process ignores the fact that his tax crimes were uncovered in the midst of an investigation of his numerous *other* crimes. And his complaints about pre-charge process ignore the fact that Cohen was well aware he was under investigation for months before he was charged, and his counsel was given several opportunities to present to the Office as to why he should not be charged and in fact made such a

presentation. Finally, Cohen's complaints about process and his attempts to blame his accountant make evident the need for an incarceratory sentence to reflect what Cohen still plainly does not perceive: His actions were not just technically criminal, but serious offenses against the Government and the public.

The two unlawful campaign contribution cases cited by Cohen are similarly of little value in crafting an appropriate sentence here. (Def. Mem. at 19.) The defendants in those cases made excessive contributions through straw donors, but the amounts of money involved were less substantial, and the effect of the crimes were less severe. Cohen's crimes are particularly serious because they were committed on the eve of a Presidential election, and they were intended to affect that election. Thus, the gravity of the offense is considerably greater than the offenses committed in *United States v. Dinesh D'Souza*, No. 14 Cr. 34 (RMB), or *United States v. Jia Hou and Xing Wu Pan*, No. 12 Cr. 153 (RJS). Moreover, neither case related to the making of a coordinated expenditure – a different offense under the campaign finance laws.

Cohen omits the numerous campaign finance cases, including many more analogous to the facts here, where substantial custodial sentences were imposed for campaign finance offenses. *See, e.g., United States v. Stephen Stockman*, No. 17 Cr. 116 (S.D. Tex. 2018) (defendant sentenced to 120 months' incarceration for making excessive campaign contributions, wire fraud, money laundering, and filing false tax returns); *United States v. Tyler Harber*, No. 14 Cr. 373 (LO) (E.D. Va. 2015) (defendant sentenced to 24 months' incarceration following guilty plea for making coordinated expenditures and false statements to the FBI); *United States v. John Rowland*, No. 14 Cr. 79 (JBA) (D. Conn. 2015) (defendant sentenced to 30 months' incarceration for making illegal campaign contributions, falsifying records, and causing false statements to be made to the FEC); *United States v. Joseph Bigica*, No. 2:12 Cr. 318 (FSH) (D.N.J. 2012) (defendant sentenced to 60

months' incarceration following guilty plea to tax violation and conduit scheme involving \$98,600 in illegal contributions); *United States v. Robert Braddock, Jr.*, No. 3:12 Cr. 58 (LRH) (D. Conn. 2013) (defendant sentenced to 38 months' incarceration following jury trial involving nearly \$28,000 conduit scheme). As these cases amply demonstrate, custodial sentences for serious violations of the campaign finance laws are a regular occurrence, and the Court should impose such a sentence here for the reasons stated above.

Lastly, Cohen places heavy reliance on his provision of information to law enforcement. (Def. Mem. at 1-5). To be sure, this case is in some respects unique, and Cohen's decision to plead guilty and provide information to law enforcement in matters of national interest is deserving of credit. Indeed, it is the principal reason the Office is not seeking a Guidelines sentence here. But as noted in more detail above, Cohen was well aware of the standard debriefing process in which cooperators in this District regularly participate, and declined to participate. While he answered questions about the charged conduct, he refused to discuss other uncharged criminal conduct, if any, in which he may have participated. This precludes him from being given credit for "substantial assistance" and obtaining a 5K1.1 letter. The Court should not sentence Cohen as if he has one. That is, the credit given to Cohen should not approximate the credit that a witness with a cooperation agreement and a 5K1.1 letter would merit.

Finally, Cohen's further assertion that he is deserving of leniency because he "could have fought the government and continued to hold the party line, positioning himself for a pardon or clemency" reflects a continuation of his mindset that, at his own option, he is above the laws reflected in his crimes of conviction. (Def. Mem. at 5). Every defendant in every criminal case has the right to fight the charges against him. But where, as here, the evidence of their guilt is overwhelming, defendants often make the choice to plead guilty. After cheating the IRS for years,

lying to banks and to Congress, and seeking to criminally influence the Presidential election, Cohen's decision to plead guilty – rather than seek a pardon for his manifold crimes – does not make him a hero.

CONCLUSION

For the reasons set forth above, the Office respectfully requests that this Court impose a substantial term of imprisonment, one that reflects a modest variance from the applicable Guidelines range. The Office also requests that the Court impose forfeiture in the amount of \$500,000, and a fine.

Dated: December 7, 2018
New York, New York

Respectfully submitted,

ROBERT KHUZAMI
Acting United States Attorney

By: Nicolas Roos
Andrea M. Griswold
Rachel Maimin
Thomas McKay
Nicolas Roos
Assistant United States Attorneys

Appendix C.3
AMI Non-Prosecution Agreement and Statement of Facts



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

September 20, 2018

Charles A. Stillman, Esq.
James A. Mitchell, Esq.
Ballard Spahr LLP

Re: American Media, Inc.

Dear Messrs. Stillman and Mitchell:

Based on the cooperation and implementation of remedial measures described below, and strictly subject to the terms, conditions, and understandings set forth herein, the Office of the United States Attorney for the Southern District of New York ("this Office") will not criminally prosecute American Media, Inc. ("AMI") for any crimes (except for criminal tax violations, if any, as to which this Office cannot and does not make any agreement) related to its participation, between in or about August 2015 up to and including in or about October 2016, in making a contribution and expenditure, aggregating \$25,000 and more during the 2016 calendar year, to the campaign of a candidate for President of the United States, to the extent AMI has disclosed such participation to this Office as of the date of this Agreement. This conduct is described more fully in the Statement of Facts, which is attached hereto as Exhibit A, and incorporated by reference herein. AMI accepts and acknowledges as true the facts set forth in the Statement of Facts. Counsel for AMI hereby represents and warrants that the Board of Directors has authorized counsel to enter into this Agreement.

Moreover, if AMI fully complies with the understandings specified in this Agreement, no testimony or other information given by it (or any other information directly or indirectly derived therefrom) will be used against it in any criminal tax prosecution. This Agreement does not provide any protection against prosecution for any crimes except as set forth above.

It is understood that AMI (a) shall truthfully and completely disclose all information with respect to the activities of itself and its officers, agents and employees concerning all matters about which this Office inquires of it, which information can be used for any purpose; (b) shall cooperate fully with this Office and any other law enforcement agency designated by this Office; (c) shall attend all meetings at which this Office requests its presence and use its best efforts to secure the attendance and truthful statements or testimony of any past and current officers, agents, or employees at any meeting or interview or before the grand jury or at trial or at any other court proceeding; (d) shall provide to this Office upon request, any document, record, or other tangible evidence relating to matters about which this Office or any designated law enforcement agency inquires of it; and (e) shall commit no crimes whatsoever. Moreover, any assistance AMI may provide to federal criminal investigators shall be pursuant to the specific instructions and control of this Office and designated investigators. AMI's obligations under this paragraph will continue

until the later of (1) a period of three years from the signing of this Agreement, or (2) the date on which all prosecutions arising out of the conduct described in the opening paragraph of this Agreement are final.

It is understood that, should AMI commit any crimes subsequent to the date of signing of this Agreement, or should the Government determine that AMI or its representatives have knowingly given false, incomplete, or misleading testimony or information, or should AMI otherwise violate any provision of this Agreement, AMI shall thereafter be subject to prosecution for any federal criminal violation of which this Office has knowledge, including perjury and obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against AMI, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

It is understood that if the Government has determined that AMI has committed any crime after signing this Agreement or that AMI or its representatives have given false, incomplete, or misleading testimony or information, or that AMI has otherwise violated any provision of this Agreement, (a) all statements made by AMI or its representatives to this Office or other designated law enforcement agents, and any testimony given by AMI or its representatives before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statements or testimony shall be admissible in evidence in any criminal proceeding brought against AMI; and (b) AMI shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom should be suppressed. It is the intent of this Agreement to waive all rights in the foregoing respects.

It is further understood that AMI shall (a) prepare and distribute, within three months of the signing of this agreement, to AMI's executive officers, senior management and editorial employees of a set of written standards regarding federal election laws and their application to AMI's media operations (the "Standards"); (b) conduct annual training concerning the Standards, with required attendance by AMI's executive officers, senior management and editorial employees; (c) employ, retain, or designate counsel knowledgeable in the field of federal election law as applied to AMI's business, which counsel shall be made available to all AMI employees to discuss any questions or concerns with respect to the Standards; (d) consult with counsel to ensure that any payments to acquire stories involving individuals running for office comply with the Standards; and (e) report to this Office any violation of the Standards or federal election law by AMI, its employees, or its representatives during the period of this agreement.

It is further understood that this Agreement does not bind any federal, state or local prosecuting authority other than this Office. This Office will, however, bring the cooperation of AMI to the attention of other prosecuting offices, if requested by AMI.

It is further understood that neither AMI nor this Office will disclose this Agreement and Exhibit A attached hereto to the public on or before November 6, 2018. Nothing in the foregoing

sentence is intended to preclude AMI from making this Agreement available, on a confidential basis, for review by counsel for AMI's underwriters, auditors or insurers for the limited purpose of negotiations regarding credit decisions. Counsel for AMI agrees that they will obtain a signed acknowledgment of confidentiality executed by any underwriter, auditor or insurer who reviews the Agreement.

With respect to this matter, this Agreement supersedes all prior, if any, understandings, promises and/or conditions between this Office and AMI. No additional promises, agreements, and conditions have been entered into other than those set forth in this letter and none will be entered into unless in writing and signed by all parties.

Very truly yours,

ROBERT KHUZAMI
Acting United States Attorney


By: 

Andrea Griswold
Rachel Maimin
Thomas McKay
Nicolas Roos
Assistant United States Attorneys
(212) 637-2268

APPROVED:

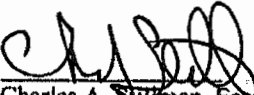

LISA ZORNBERG
Chief, Criminal Division

AGREED AND CONSENTED TO:


Eric Klee
General Counsel, AMI

September 21, 2018
Date

APPROVED:


Charles A. Sturman, Esq.
James A. Mitchell, Esq.
Attorneys for AMI

Sept 21, 2018
Date

Exhibit A to Letter to American Media, Inc., dated September 20, 2018

Statement of Admitted Facts

1. American Media, Inc. ("AMI") is a corporation based in New York. AMI owns and publishes magazines, supermarket tabloids, and books, including the *National Enquirer*, *OK! Magazine*, *Star Magazine*, *Radar Online*, *Men's Journal*, and *Muscle & Fitness Her's*.

2. As set forth in more detail below, on or about August 10, 2016, AMI made a payment in the amount of \$150,000, in cooperation, consultation, and concert with, and at the request and suggestion of one or more members or agents of a candidate's 2016 presidential campaign, to ensure that a woman did not publicize damaging allegations about that candidate before the 2016 presidential election and thereby influence that election.

3. In or about August 2015, David Pecker, the Chairman and Chief Executive Officer of AMI, met with Michael Cohen, an attorney for a presidential candidate, and at least one other member of the campaign. At the meeting, Pecker offered to help deal with negative stories about that presidential candidate's relationships with women by, among other things, assisting the campaign in identifying such stories so they could be purchased and their publication avoided. Pecker agreed to keep Cohen apprised of any such negative stories.

4. In or about June 2016, an attorney representing a model and actress attempting to sell her story of her alleged extramarital affair with the aforementioned presidential candidate contacted an editor at the *National Enquirer*. Pecker and the editor called Cohen and informed him of the story. At Cohen's urging and subject to Cohen's promise that AMI would be reimbursed, the editor began negotiating for the purchase of the story. On June 20, 2016, the editor interviewed the model about her story. Following the interview, AMI communicated to Cohen that it would acquire the story to prevent its publication.

5. On or about August 5, 2016, AMI entered into an agreement with the model to acquire her "limited life rights" to the story of her relationship with "any then-married man," in exchange for \$150,000. It was also agreed that AMI would feature her on two magazine covers and could publish over one hundred magazine articles authored by her. AMI agreed to pay the model \$150,000 — substantially more money than AMI otherwise would have paid to acquire the story — because of Cohen's assurances to Pecker that AMI would ultimately be reimbursed for the payment. Despite the cover and article features to the agreement, AMI's principal purpose in entering into the agreement was to suppress the model's story so as to prevent it from influencing the election. At no time during the negotiation for or acquisition of the model's story did AMI intend to publish the story or disseminate information about it publicly. On or about August 10, 2016, AMI sent \$150,000 to an attorney representing the model.

6. Between in or about late August 2016 and September 2016, Cohen called Pecker and stated that he wanted to be assigned the limited life rights portion of AMI's agreement with the model, which included the requirement that the model not otherwise disclose her story. Pecker agreed to assign the rights to Cohen for \$125,000. Pecker instructed a consultant who works for AMI to complete the assignment through a company unaffiliated with AMI. On September 30,

2016, Pecker signed an assignment agreement, which contemplated the transfer of the limited life rights portion of AMI's agreement to an entity that had been set up by Cohen for \$125,000. The consultant delivered the signed assignment agreement to Cohen, along with an invoice from a shell corporation incorporated by the consultant for the payment of \$125,000, which falsely stated the payment was for an "agreed upon 'flat fee' for advisory services." However, in or about early October 2016, after the assignment agreement was signed but before Cohen had paid the \$125,000, Pecker contacted Cohen and told him that the deal was off and that Cohen should tear up the assignment agreement.

7. Following the 2016 presidential election, AMI published articles written by the model in *OK! Magazine* and *Star Magazine*, featured her on the cover of *Muscle & Fitness Her's*, and published articles in *Radar Online* featuring the model. The publication of these articles was intended, at least in part, to keep the model from commenting publicly about her story and her agreement with AMI.

8. At all relevant times, AMI knew that corporations such as AMI are subject to federal campaign finance laws, and that expenditures by corporations, made for purposes of influencing an election and in coordination with or at the request of a candidate or campaign, are unlawful. At no time did AMI report to the Federal Election Commission that it had made the \$150,000 payment to the model.

9. AMI has cooperated with the United States Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation during its investigation and provided substantial and important assistance to the investigating agents and prosecutors during the course of the grand jury investigation in the Southern District of New York. Among other things, AMI has made various personnel from AMI available for numerous interviews; engaged outside counsel to ensure the integrity of its compliance with and responses to subpoenas; and responded to numerous requests from prosecutors for various specific items of information. AMI has also agreed in connection with the Non-Prosecution Agreement to implement specific improvements to its internal compliance to prevent future violations of the federal campaign finance laws.

Appendix D.1
Donald J. Trump's Testimony Before the N.Y. Commission
on Government Integrity in 1988

1
2 STATE OF NEW YORK

3 COMMISSION OF GOVERNMENT INTEGRITY

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5
6 HEARING ON CAMPAIGN FINANCE PRACTICES

7 OF CITYWIDE AND STATEWIDE OFFICIALS

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9
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11 -----x

12 New York County

13 Trial Lawyers Association

14 14 Vesey Street

15 New York, New York

16
17 March 14, 1988

18 9:30 A.M.

19
20 B E F O R E: JOHN D. FEERICK, CHAIRMAN

21
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23
24
25 DAVID FELDMAN & ASSOCIATES (U.S.A.) LTD.

350 FIFTH AVENUE - SUITE 7916 - NEW YORK, NY 10118 (212) 213-1111



P A N E L:

KEVIN J. O'BRIEN

RICHARD D. EMERY

PETER BIENSTOCK

CYRUS R. VANCE

PATRICIA M. HYNES

JAMES L. MAGAVERN

NICOLE A. GORDON

A P P E A R A N C E S:

NEW YORK STATE COMMISSION ON
GOVERNMENT INTEGRITY

2 World Trade Center

Suite 8440

New York, New York

BY: CONSTANCE CUSHMAN, ESQ.,

ALEXANDRA LOWE, ESQ.,

G. MICHAEL BELLINGER, ESQ.,

Guterman

MR. BIENSTOCK: Without knowing how many other people were guaranteeing and how large the loan was, you guaranteed your share of that 50,000?

THE WITNESS: Unless someone else was going to pay it for me, if it were not repaid, I would have no reason to worry how many other people were doing a similar thing.

CHAIRMAN FEERICK: Thank you for your participation in these hearings.

The Commission calls Donald Trump.

D O N A L D T R U M P,

having been first duly sworn by the

Chairman, has examined and testified as

follows:

CHAIRMAN FEERICK: Recognize Counsel Michael Bellinger.

MR. BELLINGER: Thank you, Mr. Chairman.

EXAMINATION BY MR. BELLINGER:

Trump

A. Since I graduated from college, about twenty years ago.

Q. And would you describe your business enterprises, please?

A. Primarily, the real estate business in New York City.

Q. Mr. Trump, in order to engage in real estate development and construction in New York City, there is a lot of interaction between your company and various tiers of City government?

A. I would say that's generally correct, yes.

oftentimes you feel there is too much red tape involved?

A. To put it mildly, yes.

Q. In fact, I think to demonstrate the inefficiency of New York City government as well as perform a public service, you reconstructed the Wollman Skating Rink; is that true?

A. Yes, I did.

Trump

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A. Fairly, yes.

Q. And yet, according to the Board of Elections records that the Commission has examined, you contribute quite heavily to local campaigns?

A. That's correct. Yes.

Q. In fact, in 1985 alone, your political contributions exceeded \$150,000; is that correct?

A. I really don't know. I assume that is correct, yes.

Q. What type --

A. Excuse me, somebody left a very heavy, very heavy gold pen, I assume it's Mr. Guterman.

Q. Mr. Trump, what forms do your political contributions usually assume; are they monetary contributions, loan guarantees?

A. Generally I guess monetary contributions. I think in some cases loan guarantees, yes.

Q. Mr. Trump, I am going to name a list of local political incumbents, and I would appreciate if you would indicate in which manner the campaign solicited you for contributions.

City Council President Andrew Stein?

Trump

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A. How they solicited me?

Q. Were they personal solicitations, or a solicitation from someone else in the campaign?

A. Generally speaking, Mr. Stein or perhaps one of his associates would call me and ask to make a contribution. He had a pretty strong race with Mr. Lipper, as I remember it, and it was probably the only real race that I saw last time out, as I remember, but Mr. Stein would call me directly and ask for help.

Q. Have you ever been personally solicited for campaign contributions by Harrison Goldin?

A. I might have been. I really don't remember specifically.

Q. Mr. Trump, is it true that in the past you have made political contributions to Mayor Koch?

A. Yes. That is true.

Q. And were those personal solicitations by the Mayor?

A. I really don't remember specifically.

Q. Mr. Trump, in the past have you been approached to guarantee a loan by a specific

Trump

campaign committee?

A. Well, I don't know what you mean by campaign committee. I would say that whether it was a committee, in many cases you have fundraisers and that's held by a committee. You have somebody giving a cocktail party for the various people and that's held by the committee, the committee to elect so-and-so, and so in that sense I guess the answer would be yes.

Q. Have you ever guaranteed a loan for a political candidate, sir?

A. I believe so, yes.

Q. And do you recall which candidate that was?

A. I think it was Andrew Stein.

Q. Do you recall the amount and when this loan took place, loan guarantee?

A. Not specifically, no, sir.

Q. Do you recall who approached you from the Andrew Stein campaign to guarantee the loan?

A. I don't really remember, no.

Q. Mr. Trump, would you please turn to Exhibit 34 in that book in front of you.

A. Okay.

Trump

Q. And flip through to page 8 of that particular exhibit.

A. Okay.

Q. Mr. Trump, does this document refresh your recollection as to the amounts and the dates of this loan guarantee?

A. Not particularly. I see that I have guaranteed \$50,000, but not really, not too much.

Q. In fact, Mr. Trump, is it safe to say that the loan was repaid by you on February 20th of 1985?

A. I don't believe so.

Q. December 20th of 1985.

A. Yes, I believe so, yes.

Q. And the date of the loan was June 6th of 1985?

A. That's correct.

Q. Mr. Trump, isn't it a fact that the Stein campaign approached you for this loan guarantee and gave you assurances that in fact you wouldn't have to repay the loan?

A. Well, I was under the impression that I was not going to be repaying that -- that I would be paid -- I was of the impression at the

Trump

time it was made that I would be getting my money back.

Q. And when were you disabused of that notion?

A. When it was time to get my money back.

Q. Mr. Trump, would you please turn to Exhibit 36 in that binder, and we have a photographic enlargements of that exhibit.

A. Okay.

Q. Sir, would you please go through these exhibits and identify which of these enterprises are either Trump-controlled or have significant Trump interests?

A. Okay. Shore Haven Apartments No. 2, Inc., Shore Haven Apartments No. 6, Inc., Trump Management, Inc., Shore Haven Apartments No. 3, Inc., Sussex Hall, Borough Hall, Inc., Green Park Sussex, Inc., Green Park Sussex, Robert S. Trump-- he is my brother. Shore Haven -- Garnet Hall, Inc., Trump Village Construction Corp., Webster Hall, Inc., Shore Haven Apartments No. 1, Inc.

That's it.

Q. Mr. Trump, why aren't these political

Trump

contributions just made solely in your name?

A. Well, my attorneys basically said that this was a proper way of doing it. In terms of anything else, I mean I usually got a call from a reporter as soon as this was filed, asking me why I made contributions.

It's pretty evident to most people that I own Shore Haven Apartments and that we own all these things. Generally our corporations are named after buildings, and so we have the name specifically of a particular property on them, so usually if from any other standpoint, if we made a contribution, Trump Village Construction Corp., I mean there weren't too many people that know that Trump Village Construction Corp. isn't owned by us.

So it was no own reason other than that lawyers informed us that this was the way people were doing. I don't even know specifically what the exact reason would be.

Q. Are you familiar with the personal limits that an individual could contribute to political campaigns in a calendar year in this state?

1 Trump

2 A. I know there was a personal limit. I
3 am not sure exactly what that limit is.

4 Q. Mr. Trump, when I met with you in your
5 office, you indicated that reduction in
6 contribution limits would really not impact the
7 system as you understood it; is that true?

8 A. I might have even said of course I
9 think it would be a bad thing for the system in
10 many respects.

11 Q. Could you explain your position,
12 please?

13 A. I have gone through the federal
14 campaigns, and frankly it's the best thing that
15 ever happened to me because you're limited to a
16 thousand dollar contribution. But I see a lot of
17 Congressmen who spend their entire tenure trying
18 to raise money, with a thousand dollar limit, as
19 opposed to maybe working.

20 Maybe that's the reason that Japan is
21 doing so well against the United States, because
22 all our representatives are out trying to raise
23 money.

24 When you have a thousand dollar limit
25 or the kind of limit that's so small and yet you

Trump

have to raise millions of dollars to run in a race, or in the case of New York City officials in many cases millions, or hundreds of thousands of dollars, I think what it does is it really makes them campaign fundamentally to raise money and not be able to really keep their eye on the ball.

I thought, and it's of no great importance to be to a certain extent, but I thought it was a very great negative to see these limits changed or to see it changed dramatically.

I also said to you that I felt that it may have the effect of making a certain person dishonest, because he is so intent on winning an election, he can't raise money where it's obviously reported such as this, and everybody knows how it's reported, and it may very well, and I don't know of any such instance but it may very well be a tendency to panic a man running for office and make him dishonest.

Also as a third point I gave you at the time, having the names reported like this, every time I make a contribution, it's open, it's

Trump

reported in the New York Times, the News, the Post and every other newspaper, and I think that a politician has a certain amount of pressure on him to vote against me because of the fact that I made a contribution.

So having an open system, a system where you can make contribution, I think puts certain politicians essentially on notice that everyone is watching, everybody knows exactly what Donald Trump or anybody else made in terms of contributions to them, and I think they have to watch.

But I do believe that limiting the campaign only makes these people work very hard to raise money, and I believe that's all they are going to have time to do.

Q. Didn't you also say that this could quite possibly increase your influence, even though it might lower your personal limits, it would allow you or an individual similarly situated to call around and in fact raise money though it wouldn't come out of your own pocket?

A. I did say that. Let's say I was restricted to giving a thousand or a couple of

Trump

thousand dollars, I don't believe there is any way from a practical standpoint that I would be restricted to holding a cocktail party for a certain candidate, get 50 people to go to the party with two thousand apiece. And get the \$100,000 contributions.

It would have a greater impact on his campaign than if I contributed \$100,000 myself, and I think it would be, if the word can be appreciated, perhaps it would be appreciated, perhaps it wouldn't, but I think it would have a bigger impact actually on his campaign.

Q. Do you think that loans would be prohibited?

A. I don't really have a feeling on the loans. I think the loans perhaps could be intertwined with the rest of what we're saying, but I do believe that candidates, if they are restricted too much, are unable to focus on running a city, on running an office, on really doing the job that they were elected to do.

I think it's a very bad precedent, in speaking to the various federal officials who were under the horrible problem of having to

Trump

raise hundreds of thousands and millions of dollars with \$1,000 contributions.

I mean, I see these people, they are literally campaigning all the time. I don't know how they have the time to do anything else other than campaign.

MR. BELLINGER: Mr. Chairman.

CHAIRMAN FEERICK: Mr. Trump, do you feel a large contribution puts unnecessary pressure on a public official, either to be responsive to the contributor, or, my thought, one's public image not being responsive but, if anything, perhaps where it should be responsive to a large contributor he is not because of the large gift?

THE WITNESS: Sir, I don't think it's great. I really don't.

CHAIRMAN FEERICK: I am sure you don't think it's great.

THE WITNESS: I don't think the large contribution is a great thing, but I do think it's the lesser of the evils. I believe that a large reported contribution, the word is reported, if somebody makes a large contribution

Trump

to a candidate, and that particular candidate obviously is going to be reported because -- I know whenever I make, whether it's through corporations or not, whether they have my name on it or not, it's always reported in the newspaper.

There is a tremendous amount of burden on that particular candidate to do what's right, and I really mean that. I believe the worst evil is where a candidate is unable to raise money because the amounts are so low, they are set and they are very low, I believe that puts a tremendous amount of increased burden on that candidate, and I really believe it could even go so far as as the ultimate step and that's to create dishonesty against certain candidates.

I don't love the idea of large contributions, but I think it's probably the lesser evil in terms of all of the different ways of -- there aren't that many alternatives, but in terms of other alternatives.

CHAIRMAN FEERICK: Aside from my staff, have you received questions as to why your gifts are as substantial as they are?

Trump

THE WITNESS: Not particularly, not that I remember.

MR. VANCE: It seems to me from what you have said that it would be a corollary that full and complete disclosure and timely disclosure is absolutely essential; is that correct?

THE WITNESS: I do believe that, yes. I do believe that, sir.

MR. VANCE: Let me ask you a question about another issue here. Do you feel that it's necessary to make large contributions in the cost of doing business, you have concern that if you don't, you may get punished in some way in connection with things that you may have coming before the particular body involved?

THE WITNESS: I personally don't. But I can see that some people might very well feel that way, sir. I personally do not feel that way, as relating to myself; I believe that it's possible other people might as relating to themselves.

MR. VANCE: What about in terms of perceptions, how do you feel?

Trump

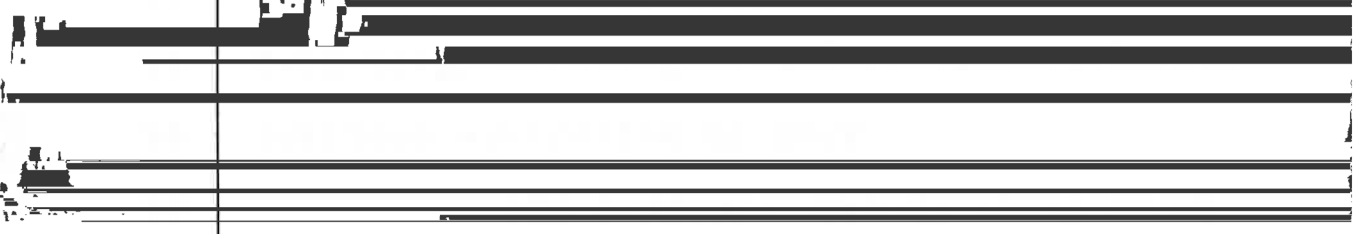
THE WITNESS: I think the perception is in a way worse when I make a large contribution, and maybe because I do get a bit of attention by the press and other people, and if they hear that Donald Trump made a contribution it's always very heavily reported, and I think that puts pressure on the candidate in a sense to say based on this, and that happened to me, where I was asking for something that was totally proper and even good, and a candidate really was under pressure to reject it because I made contributions to his campaign.

And that is sort of the reverse of what we are all here to discuss today. So I really feel that, as you said, I think one of the very, very important things is fast, adequate and very strong disclosure, as opposed to limits on a campaign.

CHAIRMAN FEERICK: Mr. Emery.

MR. EMERY: Mr. Trump, when did you

first start making campaign contributions in New



Trump

business career.

MR. EMERY: In the mid-'70s or before that?

THE WITNESS: I would say probably in the mid-'70s and early '70 s, yes, sir.

MR. EMERY: Were your contributions during that period as substantial as the ones you are making these days, or have been making for the past few years?

THE WITNESS: Probably not, but I wasn't as substantial either. I think relatively they may have been as substantial.

MR. EMERY: Your first big deal in New York City was the development of the Grand Hyatt out of the old Commodore?

THE WITNESS: Yes.

MR. EMERY: That took place during the very last days of the Beame administration?

THE WITNESS: No, actually what people don't understand is that Ed Koch was the man responsible for signing off on the Grand Hyatt. The Beame administration had signed off, but then it was a difficult time in New York City, and various changes had to be made to the contract

Trump

and we went back to the Koch administration, as I remember it, it's a long time ago, but we went back to the Koch administration and that I had these changes, and ultimately it was a total review of the process, a signoff by various representatives of the Koch administration to get the Grand Hyatt built.

BY MR. EMERY:

Q. Was that true also of the issue of the tax abatement that was granted during the latter days of the Beame administration?

A. Essentially it was the same. If Koch wanted to change, that was the document. If we wanted to renegotiate a new deal, I think people complained about that deal.

But if that deal were to be changed, that was the document that I needed the changes in, in terms of getting the financing from the various institutions. So while we had it pretty well set with the Beame administration, we then carried on into the Koch administration.

The deal was actually initially funded in the Koch administration, changes to the tax abatement and/or the lease which is basically the

Trump

same thing, but the lease is what gave the tax abatement, were made during the Koch administration, the early months of the Koch administration.

Q. Had you given campaign contributions to the members of the Board of Estimate during the Beame administration?

A. I don't remember but I assume so, yes.

Q. And did you continue such contributions, to the best of your recollection, during the early days of the Koch administration?

A. I believe so. Yes.

Q. And have you continued that activity with relative increases in accordance with your relative increase in success up to the present time?

A. I don't know if it's been relative increases. I have continued it generally. If I like somebody or I think they are doing a good job in the City, I have a big stake in the City, and if I think somebody is better than somebody else, I generally support that person.

Q. Do you ever contribute to both sides?

A. Sometimes.

Trump

Q. Do you remember campaigns where you did that?

A. Not specifically, but oftentimes as happens, you will have two or three friends running for the same office and they literally are all coming to you asking for help, and so it's a choice, give to nobody or give to everybody.

I disclose it very openly because obviously it gets out in the newspapers two days later. It's not like I don't know what I am getting into.

I give to two or three candidates, sometimes three candidates at the same time. What I will do is tell all three that I am giving to all three. But I have contributed to candidates that are running against each other on the basis that both candidates are friends.

Q. And I take it that in those situations you vote in the elections here in the City; is that correct?

A. Yes.

Q. So in some instance you are contributing to candidates who are not running

Trump

against one another?

A. I guess that's right.

Q. So in some instances your vote tells you in the privacy of a voting booth which candidate you prefer?

A. That's correct, but in some instances I don't vote on that particular slate. I have had cases where I like both candidates, where I don't want to vote for either of them and have contributed to both.

Q. Is it fair to say that some of your motivation is that you don't want to alienate a friend?

A. I don't think it's the word alienate. I have developed a lot of relationships over the course of years, a lot of friendships, and I don't think the word really would be alienate.

I don't want to hurt a friend, I don't want to have them feel that I have let them down when they are looking for their big shot at public office. I don't want to go as strong as alienate, because I don't think that I would alienate them.

Q Are you aware of any real estate

Trump

developer in New York City who conducts their business in New York City successfully without making campaign contributions to a large number of members of the Board of Estimate?

A. I really do not know.

Q. Let me ask you quickly, if I may, what your professional relations are with Howard Rubinstein or Howard Rubinstein & Associates?

A. He represents me on various projects. Certain public relations aspects of projects like he represents me on my book, I wrote a book, and he recommended me to one of his people who represented me on it.

Generally it's not having to do with political issues. It's generally having to do with holding back the press, holding the press at bay if I am doing something, so I just can't take the calls and what Howard would do is he would funnel the calls or take the calls himself.

Q. How early on did you establish your relationship with Mr. Rubinstein?

A. Pretty early on. I would say probably around 1975 or so.

Q. Before the Commodore or Grand Hyatt

Trump

development?

A. I would say probably a little bit after. I am not exactly sure in terms of date. In that period.

Q. Mr. Rubinstein was active in the Beame administration as well as later on, active in the case that he is active as a fundraiser and public

relations person in both the Beame and Koch administrations; is that right?

A. I believe.

Q. He played the same role for various people in both administrations?

A. I believe so. That's correct, yes.

Q. Does he ever come to you and ask you to make contributions to people that he is raising funds for?

A. Very seldom.

Q. But he does do that?

A. I don't even remember one instance, that's why I am using the term very seldom, to protect myself.

I don't specifically remember. It's

Trump

Q. Do you know any major real estate developer in New York City who does not have a relationship with Howard Rubinstein as a public relations person?

A. I imagine there are a lot of them, but I really just don't know who they are.

BY MS. HYNES:

Q. You mentioned that you don't favor lowering limits on campaign contributions. Do you have a point of view on public financing of campaigns?

A. I never liked the idea of public financing, as to why I am not sure I can define it. But I have never really liked the idea of the concept of public financing. I look at this as a freer system, I suspect, than that.

And I believe that if somebody's capable enough to go out and win an election and raise the money necessary to win an election and do all the things necessary, I look at that to a certain extent as being to his or her credit, and I have never been a big fan of public financing.

I have never seen a public financing that solved certain of the problems. One of the

Trump

other problems I had with public financing is that all the methods of public financing that I have reviewed have really very much discriminated against certain candidates, where how does it kick in.

If it's too a liberal, then everybody in the world can run for office, and if it's too tight, that is unfair to a lot of people because they wouldn't be able to run under any circumstances, because that would be not allowed.

So I never have been a big fan of public financing.

Q. Do you have any recommendations for us concerning campaign financing other than the public financing?

You said that public financing wouldn't solve certain of the problems. What are the problems that you think need to be solved in campaign financing?

A. I really think the biggest thing, this is just my view and I am not certainly an expert on it, but I think the greatest contribution that you can make is a major disclosure of the

Trump

contribution.

So that everybody is fully aware that Trump and that so-and-so and so-and-so gave to a certain person running for political office, and I really believe that public disclosure goes a long way to solving any of the problems that I would have with the law and the inequities of the law as it currently exists.

Now you do have public disclosure right now but it's not as rapid perhaps as it should be. Maybe it's not as open as it should be, maybe it should be more open. But I think the public disclosure can be perhaps tightened up somewhat.

MS. HYNES: Thank you.

BY MR. MAGAVERN:

Q. Mr. Trump, as I understand your testimony, you have developed reasonably close personal relations with most of the elected officials in New York; is that right?

A. I think I have a pretty good relationship with many of them, and with some I don't.

Q. Do you feel that those relationships

1 Trump

2 would suffer if you stopped making contributions
3 all together?

4 A. I really don't know.

5 Q. Do you think that for someone not as
6 well known as you, who has not been on the scene
7 for as long, not been as predominant, that
8 contributions may be a means to develop that kind
9 of relationship?

10 A. I wouldn't answer that. If you're
11 dealing within the ideal world, it certainly
12 would have no effect. Maybe we are not dealing
13 in the ideal world and that's why we are here
14 today.

15 In the real world, I don't know. I
16 can't answer. It really depends on the people
17 involved.

18 Q. Do you feel it's important in your
19 projects to have attorneys and other consultants
20 who have good access to City government?

21 A. That's an interesting question,
22 because I have really done it both ways. It's my
23 turn to get turned down, because they say we just
24 gave you this and this and this, and now it's
25 time to turn your next client down.

Trump

I am not sure -- I don't know what access is. I think it's different than it was in years gone by.

Really this system is certainly not a perfect one in New York, and I have tended to use people that have a good track record, in terms of getting approvals.

But believe me, there is nothing in this Citv that's foolproof, as far as getting

Trump

Oftentimes you are better off going in, and I have seen it, but oftentimes you might be better off going in with somebody that's not winning such victories, and I have I believe it was one whereby I thought I should be entitled to something and, as I remember, I didn't get what I thought I should have gotten, but the attorney was doing very well for other clients.

I find that that's a psychological thing, but I think there is pressure. That's almost like public disclosure. There is pressure on certain people to really disclose.

Q. Are you aware of efforts by law firms to impress clients and potential clients with their access to City officials?

A. I think there is a lot of bravado in a lot of people, but I don't -- I think anybody that's sophisticated in this City nowadays, and especially with all the problems that we have been reading about over the last number of months and years, I don't think anybody takes anybody too seriously any more.

I think there is certainly bravado with regard to clients.

Trump

Q. You think we'll see fundraisers with elected officials with client development purposes?

A. I don't know if that's true, but I have certainly seen lawyers hosting fundraisers.

Q. Do you think business development might have something to do with those hostings?

A. Very, very possible, yes, sir.

BY MR. EMERY:

Q. Just a couple of more questions. I take it you have had several instances of issues that were up before the Board of Estimate, where you need Board of Estimate approval.

A. Yes.

Q. If you could describe for me how you go about that, I would really like to know, because I think it would help us evaluate the role of campaign contributions, or at least the appearance in the sense that you have to get access to certain people, you have to convince them that the issue that you have up there should be approached on the merits.

How do you do it, what do you do to get that accomplished?

Trump

A. First of all, it's a horrible process. And it's a process that is putting New York at a tremendous disadvantage. To get something approved now in New York is just a very -- anybody that needs approval is in a very unfortunate situation.

Now a lot of that, and this gets to be beyond I think even what you're looking at, a lot of that has to do with the fact that with all of the investigations going on, with all of the problems, with all of the indictments of people from a year ago, two years ago, to the present, public officials in this City are virtually

hesitant when we are not willing to act

It's easier to let a company go to New Jersey which is doing very well under Tom Keane than it is for some public official, so there is no way we are going to lose that staple company from the Bronx or from Brooklyn. There is no way

Trump

don't know if anybody says or doesn't say it, it doesn't make any difference to me, but I can tell you that New York City is being put at a tremendous disadvantage because we don't have people fighting for causes that should be fought for, because they never get in trouble if they don't do anything.

Q. Just from your personal experience where you had to get something approved where you thought it should be approved on the merits, let's say there was public opposition to it or problems with it, how did you go about getting that to occur?

What I want to know is the nuts and bolts of who you relied on.

A. I will give you an example. I think my most reasonable example is the Wollman Rink. I was offering to build the Wollman Rink where I was going to put up my money.

If it didn't work I didn't want the City to pay me back. I was doing this as a charitable contribution virtually from the standpoint of risk. Certainly not business decision.

Trump

This was something that I got tired of seeing this rink for six or seven years not built and built incorrectly. All the money that was being wasted.

I went before the Board of Estimate, and I want to tell you I had one hell of a hard time getting this approved.

Now, I had lawyers, and I had people working, but with all of this, here I am putting up the money, I am saying it will be open in six months, whatever.

Well, after all this we had a hard time getting approved. The session went well into the night and ultimately it was approved. But that was no great thing, that was nothing -- by the way, the other thing was anything we had left over, as I remember, was going to go to charity.

There was no money in it for nothing. The only thing in it for me was a standard of somewhat of excellence in that we are going to finish something quickly and efficiently and get people ice skating in Central Park.

Q. That's not my question. I understand

Trump

your frustration, but I would like you to focus in on the actual mechanisms that you have to undertake to approach and communicate with politicians who are ultimately going to cast their vote, which lawyers do you rely on, do you rely on Howard Rubinstein because of his fundraising activities with respect to those?

A. Yes, sir.

Q And what I am asking you is how you get your initiative across.

A The problem with the question, and it's a very good question and a fair one, but unfortunately there is some different kind of approvals you need, for instance.

Q I am talking about the Board of Estimate only.

A I understand that but to get to the Board of Estimate, how do you get before the Board of Estimate really has to be a part of that question.

For instance, if you are looking for a zone change, you have to go through an entirely other and different agency, the City Planning Commission. That probably has a great influence

Trump

on investment.

Local community planning boards have great influence on the Board of Estimate. That's one kind of approval. If you're looking for a contract to sell widgets in New York if you're looking for -- I don't believe you have to go through too many different agencies. You can go directly to the Board of Estimate.

Q. So assume for purposes of the question you have gotten through all the preliminary agencies and you're at the Board of Estimate, and it's a public issue. How do you go about --

A. You would go out and get your lawyer, before you go there hopefully you would have your lawyer, but you go out and get your lawyer and maybe get a consultant or so.

You make your presentation to the Board of Estimate. And then you in a sense would hope that everything goes well and everything is well.

Now as to which lawyer you get, which I think is really the crux of your question --

Q. How do you they make contacts?

A. Yes, it generally would be private

Trump

contracts during this negotiation, because oftentimes with the Board of Estimate it's negotiations, it's not a hard or cold no.

So oftentimes it's a give and take. Which is I think a good thing, but oftentimes it is a give and take with the Board of Estimate and during this period of time you're dealing with either the board of system staff, the various individual staffs or you're dealing with somebody on the Board of Estimate directly.

Q. Do you play a role directly in those negotiations?

A. It depends how important it is. If it's big development or whatever, I play a role. I may very well make the calls. If it's something important to me I would likely make the call myself.

Q. Does it make any difference to you in that meeting that you may have given that person \$150,000 over the past three years?

A. It doesn't make any difference to me. Your question is does it make any difference to them, and you have to ask them.

CHAIRMAN FEERICK: Thank you very

Appendix D.2
Donald J. Trump's Affidavit to the FEC Demonstrating
Knowledge of Campaign Finance Laws in 2000

HERGE, SPARKS & CHRISTOPHER, LLP

ATTORNEYS AT LAW

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(703) 848-4700

June 30, 2000

FACSIMILE NUMBER

(703) 893-7371

J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER
MATTHEW SCOTT McCONNELL
CHRISTOPHER T. CRAIG

**Certified Mail -
Return Receipt Requested**

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 5020

Dear Mr. Noble:

This letter is written in furtherance of my letter to you, dated June 16, 2000, in which I confirmed our appearance as counsel to Mark A. Brown, Fred A. Buro, Lawrence Mullin, Donald J. Trump, and Trump Hotels & Casino Resorts, Inc. relative to the complaint filed by Audrey L. Michael, dated May 18, 2000, which has been designated MUR 5020. We enclosed with our letter each of our clients' Statement of Designation of Counsel; and we requested an extension until July 3, 2000 within which to submit this substantive response. By letter to me dated June 20, 2000, the Commission acknowledged our appearance and granted our extension request.

In her complaint, Ms. Michael made the following allegations about our clients:

"On March 27, 2000, according to the Press of Atlantic City, Trump Hotel Casinos and Resorts (sic) held a fundraiser to benefit William Gormley, a candidate for the U.S. Senate. Mr. Mark Brown, Mr. Lawrence Mullin and Mr. Fred Burro (sic) contacted various employees of Trump Hotels and Casino Resorts and solicited and received contributions from 33 employees (list attached) for a total of \$28,800.

"Mr. Brown collected these checks. The checks then were turned over to Mr. Donald J. Trump who presented them to Mr. Gormley.

**RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 5 3 01 PM '00**

* * * * *

"In all cases, employees of these corporations were compelled by senior executives to give to Mr. Gormley's campaign in violation of the Federal Election Law prohibiting 'bundling'."

The foregoing allegations are spurious and totally false.

To evidence the falsity of the allegations in Ms. Michael's complaint and to demonstrate that the Federal Election Commission should take no action against our clients in connection with this matter, we submit to you herewith executed affidavits of Mark A. Brown, Fred A. Buro, Larry Mullin, and Donald J. Trump.¹ Those affidavits overwhelmingly confirm the following:

1. It was Donald J. Trump who personally sponsored, paid for, and hosted in his residence the March 27, 2000 reception for William L. Gormley, a candidate for election to the United States Senate from New Jersey. Contrary to the allegation by Ms. Michael that "Trump Hotel Casinos and Resorts (sic) held a fundraiser to benefit William Gormley" on March 27, 2000, it was in fact Donald J. Trump who personally sponsored the March 27, 2000 reception for Mr. Gormley. (See Trump Affidavit ¶3; Brown Affidavit ¶3; Buro Affidavit ¶3; and Mullin Affidavit ¶3.) Mr. Trump sponsored and hosted the reception in his individual capacity; not as Chairman of Trump Hotels & Casino Resorts. (See Trump Affidavit ¶3.) The reception was held in Mr. Trump's residence. (See Trump Affidavit ¶4; Brown Affidavit ¶¶3 and 8; Buro Affidavit ¶¶3 and 8; and Mullin Affidavit ¶¶3 and 8.) The invitations, food and beverages for the reception were paid for by Donald J. Trump personally. (See Trump Affidavit ¶5.) Mr. Trump was not reimbursed for the costs of the invitations, food and beverages. (See Trump Affidavit ¶6.)

¹ To place these individuals in perspective: Donald J. Trump, is a businessman who, among other roles, serves as Chairman of Trump Hotels & Casino Resorts, Inc. Trump Plaza Hotel and Casino (the "Plaza"), Trump Taj Mahal Casino Resort (the "Taj Mahal"), and Trump Marina Hotel Casino (the "Marina") are subsidiaries of Trump Hotels & Casino Resorts, Inc. In March, 2000, Mark Brown was President of the Taj Mahal; Fred Buro was President of the Plaza; and Lawrence Mullin was President of the Marina. All four entities are located in Atlantic City, New Jersey.

2. **No executive of Trump Hotels & Casino Resorts, Inc. or its subsidiaries collected or received a contribution to Gormley for Senate from any other employee of Trump Hotels & Casino Resorts, Inc. or its subsidiaries.** Contrary to the allegation by Ms. Michael that "Mr. Mark Brown, Mr. Lawrence Mullin and Mr. Fred Burro (sic) contacted various employees of Trump Hotels & Casino Resorts and solicited and received contributions from 33 employees," no employee of Trump Hotels & Casino Resorts, Inc. or its subsidiaries gave Mr. Brown, or Mr. Buro, or Mr. Mullin, or Mr. Trump his or her contribution to Gormley for Senate. (See Brown Affidavit ¶6, Buro Affidavit ¶6, Mullin Affidavit ¶6 and Trump Affidavit ¶13.) There was a table in the foyer of Mr. Trump's residence which was staffed by Gormley campaign aides. (See Trump Affidavit ¶11.) Reception attendees who contributed to Gormley for Senate delivered their individual checks to the Gormley campaign aides. (See Brown Affidavit ¶9, Buro Affidavit ¶9, and Mullin Affidavit ¶9.) Mr. Brown, Mr. Buro, and Mr. Mullin each delivered his own contribution check to a Gormley campaign aide; but no one of them delivered any third-party's check to Mr. Gormley or to a Gormley campaign aide, because none of them ever received a contribution check from a third-party. (See Brown Affidavit ¶¶6 and 9; Buro Affidavit ¶¶6 and 9; and Mullin Affidavit ¶¶6 and 9.)

3. **Mr. Trump did not present checks from employees of Trump Hotels & Casino Resorts, Inc. or its subsidiaries to William L. Gormley.** Contrary to the allegation by Ms. Michael that Mr. Brown "collected" contribution checks from employees of Trump Hotels & Casino Resorts, Inc. and turned them over "to Mr. Donald J. Trump who presented them to Mr. Gormley," Mr. Brown did not collect any other person's contribution check to Gormley for Senate. (See Brown Affidavit ¶6.) Neither Mr. Brown, nor any other individual, gave Mr. Trump his or her, or any other person's contribution check to Gormley for Senate. (See Trump Affidavit ¶13.) Mr. Trump did not present to William L. Gormley or to any Gormley campaign aide any third-party's contribution check to Gormley for Senate. (See Trump Affidavit ¶14; Brown Affidavit ¶¶10 and 11; Buro Affidavit ¶¶10 and 11; and Mullin Affidavit ¶¶10 and 11.)

4. **No employee of Trump Hotels & Casino Resorts, Inc. was compelled to contribute to Gormley for Senate.** Contrary to the allegation by Ms. Michael that "employees of these corporations were compelled by senior executives to give to Mr. Gormley's campaign," Mr. Trump informed Messrs. Brown, Buro, and Mullin that employees of Trump Hotels & Casino Resorts, Inc. and its subsidiaries were welcome to attend the Gormley reception

Lawrence M. Noble, Esq.
June 30, 2000
Page 4

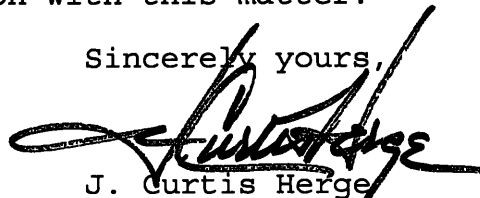
whether or not they contributed to Gormley for Senate. (See Trump Affidavit ¶10.) Messrs. Brown, Buro, and Mullin each told the members of their respective executive committees that a contribution was not prerequisite or a condition to attending the reception. (See Buro Affidavit ¶4 and Mullin Affidavit ¶4.) Mr. Trump did not compel any employee of Trump Hotels & Casino Resorts, Inc. or its subsidiaries to contribute to Gormley for Senate, or to contribute a certain amount, or to attend the reception. (See Trump Affidavit ¶10, Brown Affidavit ¶12; Buro Affidavit ¶12, and Mullin Affidavit ¶12.) Mr. Brown, Mr. Buro, and Mr. Mullin did not compel, pressure or even recommend to any subordinate that he or she should attend the reception, that he or she should contribute to Gormley for Senate, or that he or she should contribute a specific amount to Gormley for Senate. (See Brown Affidavit ¶5, Buro Affidavit ¶5, and Mullin Affidavit ¶5.)

* * * * *

The evidence is clear and compelling that, as to our clients, the allegations contained in the complaint in this matter have no foundation and are without merit. Trump Hotels & Casino Resorts, Inc. did not hold a fundraising event for William L. Gormley; the executives of Trump Hotels & Casino Resorts, Inc. and its subsidiaries did not compel employees to contribute to Gormley for Senate; and no executive of Trump Hotels & Casino Resorts, Inc. and its subsidiaries served as a conduit or intermediary of any contribution to Gormley for Senate. It would be unreasonable and an abuse of discretion to conclude otherwise or to pursue this matter further.

It is respectfully submitted that the Federal Election Commission should take no further action against Mark Brown, Fred Buro, Lawrence Mullin, Donald J. Trump, or Trump Hotels & Casino Resorts, Inc. in connection with this matter.

Sincerely yours,


J. Curtis Herge

:sbl

Enclosures

AFFIDAVIT OF DONALD J. TRUMP

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

I, DONALD J. TRUMP, being duly sworn, hereby make this statement under oath and of my own free will for the purpose of memorializing my knowledge and recollection of the facts and circumstances related to the reception I hosted on March 27, 2000 for William L. Gormley, a candidate for election to the United States Senate from the State of New Jersey.

1. I am a citizen of the United States and I reside at 721 Fifth Avenue, New York, New York, 10022.

2. I am Chairman of Trump Hotels & Casino Resorts, Inc.

3. On Monday, March 27, 2000, I personally sponsored and hosted a reception for William L. Gormley, a candidate for election to the United States Senate from the State of New Jersey. I did so solely in my individual capacity, not in my representative capacity as Chairman of Trump Hotels & Casino Resorts, Inc.

4. The March 27, 2000 reception I sponsored and hosted for William L. Gormley was held in my residential premises at 721 Fifth Avenue, New York, New York, 10022.

5. I paid from my personal funds all the costs of the invitations, food, and beverages for the March 27, 2000 reception I sponsored and hosted for William L. Gormley.

6. I was not reimbursed, in whole or in part, for the costs of the invitations, food and beverages for the March 27, 2000 reception I sponsored and hosted for William L. Gormley.

7. Of the invitations to the March 27, 2000 reception I sponsored and hosted for William L. Gormley, only approximately ten percent (10%) of the total, more or less, were mailed to executives of Trump Hotels & Casino Resorts, Inc. and its subsidiaries. The other invitees were friends and business acquaintances not employed by Trump Hotels & Casino Resorts, Inc. or its subsidiaries.

8. Trump Plaza Hotel and Casino (the "Plaza"), Trump Taj Mahal Casino Resort (the "Taj Mahal"), and Trump Marina Hotel Casino (the "Marina") are subsidiaries of Trump Hotels & Casino Resorts, Inc.

9. In March, 2000, Fred Buro was President of the Plaza, Mark Brown was President of the Taj Mahal, and Lawrence Mullin was President of the Marina.

10. I took no action, of any nature, kind or description, to compel or pressure any employee of Trump Hotels & Casino Resorts, Inc. or its subsidiaries to contribute to Gormley for Senate, or to contribute a certain amount to Gormley for Senate, or to attend the March 27, 2000 reception I sponsored and hosted for William L. Gormley. Conversely, I did inform Messrs. Buro, Brown and Mullin that decisions whether or not to contribute, how much to contribute if one decided to contribute, and whether or not to attend the reception were voluntary and, further, that executives of Trump Hotels & Casino Resorts, Inc.

and its subsidiaries were welcome to attend the reception whether or not they contributed to Gormley for Senate.

11. At the March 27, 2000 reception I sponsored and hosted for William L. Gormley, there was a table in the foyer inside the entrance to my residence which was staffed by Gormley for Senate personnel. Upon information and belief, reception attendees who contributed to Gormley for Senate delivered their contribution checks directly to the Gormley for Senate personnel at the reception table.

12. Approximately one hundred (100) individuals, more or less, attended the March 27, 2000 reception I sponsored and hosted for William L. Gormley.

13. No individual delivered to me personally, or in my representative capacity as Chairman of Trump Hotels & Casino Resorts, Inc., his or her contribution check to Gormley for Senate; and no individual delivered to me personally, or in my representative capacity as Chairman of Trump Hotels & Casino Resorts, Inc., a contribution check to Gormley for Senate drawn by a third party.

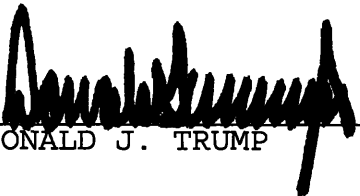
14. I did not, before or during the March 27, 2000 reception I sponsored and hosted for William L. Gormley, personally, or in my representative capacity as Chairman of Trump Hotels & Casino Resorts, Inc., deliver to William L. Gormley, or to any Gormley for Senate personnel, a contribution check to Gormley for Senate drawn by a third party.

15. I did not witness any executive of Trump Hotels & Casino Resorts, Inc. or its subsidiaries personally or in his or

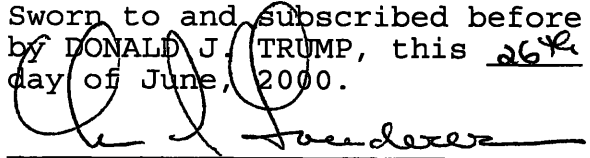
her representative capacity deliver to William L. Gormley, or to any Gormley for Senate personnel, a contribution check to Gormley for Senate drawn by a third party.

16. I neither reimbursed, nor caused any other person to reimburse, any employee of Trump Hotels & Casino Resorts, Inc. or its subsidiaries for his or her contribution to Gormley for Senate.

IN WITNESS WHEREOF, I have executed this Affidavit this **26TH** day of June, 2000.


DONALD J. TRUMP

Sworn to and subscribed before me
by DONALD J. TRUMP, this 26th
day of June, 2000.


NOTARY PUBLIC

My Commission Expires: _____.

NORMA I. FOERDERER
NOTARY PUBLIC, State of New York
No 01FO4743494
Qualified in New York County
Commission Expires Sept. 30, 2001
NORMA I. FOERDERER
NOTARY PUBLIC, State of New York
No. 01FO4743494
Qualified in New York County
Commission Expires Sept. 30, 2001