

Federal Election Commission

§ 102.17

§ 102.15 Commingled funds (2 U.S.C. 432(a)(3)).

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members or associates of that committee, or with the personal funds of any other individual. See also 11 CFR 103.3 and part 114 and 2 U.S.C. 441b.

§ 102.16 Notice: Solicitation of contributions (2 U.S.C. 441d).

Each political committee shall comply with the notice requirements for solicitation of contributions set forth at 11 CFR 110.11.

§ 102.17 Joint fundraising by committees other than separate segregated funds.

(a) *General.* Nothing in this section shall supersede 11 CFR part 300, which prohibits any person from soliciting, receiving, directing, transferring, or spending any non-Federal funds, or from transferring Federal funds for Federal election activities.

(1)(i) Political committees may engage in joint fundraising with other political committees or with unregistered committees or organizations. The participants in a joint fundraising effort under this section shall either establish a separate committee or select a participating committee, to act as fundraising representative for all participants. The fundraising representative shall be a reporting political committee and an authorized committee of each candidate for federal office participating in the joint fundraising activity. If the participants establish a separate committee to act as the fundraising representative, the separate committee shall not be a participant in any other joint fundraising effort, but the separate committee may conduct more than one joint fundraising effort for the participants.

(ii) The participants may hire a commercial fundraising firm or other agent to assist in conducting the joint fundraising activity. In that case, however, the fundraising representative shall still be responsible for ensuring that the recordkeeping and reporting requirements set forth in this section are met.

(2) The procedures in 11 CFR 102.17(c) will govern all joint fundraising activity conducted under this section. The participants in joint fundraising activity may include political party committees (whether or not they are political committees under 11 CFR 100.5), candidate committees, multicandidate committees, and unregistered organizations which do not qualify as collecting agents under 11 CFR 102.6(b).

(3) A fundraising representative conducting joint fundraising under this section is distinguished from an unregistered organization acting as a collecting agent under 11 CFR 102.6(b). If a separate segregated fund or an unregistered organization qualifies and acts as a collecting agent under 11 CFR 102.6(b), the provisions of 11 CFR 102.17 will not apply to that fundraising activity.

(b) *Fundraising representatives—(1) Separate fundraising committee as fundraising representative.* Participating committees may establish a separate political committee to act as fundraising representative for all participants. This separate committee shall be a reporting political committee and shall collect contributions, pay fundraising costs from gross proceeds and from funds advanced by participants, and disburse net proceeds to each participant.

(2) *Participating committee as fundraising representative.* All participating committees may select one participant to act as fundraising representative for all participants. The fundraising representative must be a political committee as defined in 11 CFR 100.5. The fundraising representative and any other participating committees may collect contributions; however, all contributions received by other participants shall be forwarded to the fundraising representative as required by 11 CFR 102.8. The fundraising representative shall pay fundraising costs from gross proceeds and from funds advanced by participants and shall disburse net proceeds to each participant.

(3) *Funds advanced for fundraising costs.* (i) Except as provided in 11 CFR 102.17(b) (3)(ii) and (iii), the amount of funds advanced by each participant for fundraising costs shall be in proportion

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to the allocation formula agreed upon under 11 CFR 102.17 (c)(1).

(ii) A participant may advance more than its proportionate share of the fundraising costs, however, the amount advanced which is in excess of the participant's proportionate share shall not exceed the amount that participant could legally contribute to the remaining participants. See 11 CFR 102.12(c)(2) and part 110.

(iii) If all the participants are affiliated under 11 CFR 110.3 or if the participants are all party committees of the same political party, there is no limit on the amount a participant may advance for fundraising costs on behalf of the other participants.

(c) *Joint fundraising procedures.* The requirements of 11 CFR 102.17(c)(1) through (8) shall govern joint fundraising activity conducted under this section.

(1) *Written agreement.* The participants in a joint fundraising activity shall enter into a written agreement, whether or not all participants are political committees under 11 CFR 100.5. The written agreement shall identify the fundraising representative and shall state a formula for the allocation of fundraising proceeds. The formula shall be stated as the amount or percentage of each contribution received to be allocated to each participant. The fundraising representative shall retain the written agreement for a period of three years and shall make it available to the Commission on request.

(2) *Fundraising notice.* In addition to any notice required under 11 CFR 110.11, a joint fundraising notice shall be included with every solicitation for contributions.

(i) This notice shall include the following information:

(A) The names of all committees participating in the joint fundraising activity whether or not such committees are political committees under 11 CFR 100.5; and

(B) The allocation formula to be used for distributing joint fundraising proceeds; and

(C) A statement informing contributors that, notwithstanding the stated allocation formula, they may designate their contributions for a particular participant or participants; and

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(D) A statement informing contributors that the allocation formula may change if a contributor makes a contribution which would exceed the amount that contributor may give to any participant.

(ii) In the following situations, the notice shall include the following additional information:

(A) If one or more participants engage in the joint fundraising activity solely to satisfy outstanding debts, a statement informing contributors that the allocation formula may change if a participant receives sufficient funds to pay its outstanding debts; and

(B) If one or more participants can lawfully accept contributions that are prohibited under the Act, a statement informing contributors that contributions from prohibited sources will be distributed only to those participants that can accept them.

(3) *Separate depository account.* (i) The participants or the fundraising representative shall establish a separate depository account to be used solely for the receipt and disbursement of the joint fundraising proceeds. All contributions deposited into the separate depository account must be permissible under the Act. Each political committee shall amend its Statement of Organization to reflect the account as an additional depository. If one or more participants can lawfully accept contributions that are prohibited under the Act, the participants may either establish a second depository account for contributions received from prohibited sources or they may forward such contributions directly to the non-federal participants.

(ii) The fundraising representative shall deposit all joint fundraising proceeds in the separate depository account within ten days of receipt as required by 11 CFR 103.3. The fundraising representative may delay distribution of the fundraising proceeds to the participants until all contributions are received and all expenses are paid.

(iii) For contribution reporting and limitation purposes, the date of receipt of a contribution by a participating political committee is the date that the contribution is received by the fundraising representative. The fundraising

representative shall report contributions in the reporting period in which they are received. Participating political committees shall report joint fundraising proceeds in accordance with 11 CFR 102.17(c)(8) when such funds are received from the fundraising representative.

(4) *Recordkeeping requirements.* (i) The fundraising representative and participating committees shall screen all contributions received to insure that the prohibitions and limitations of 11 CFR parts 110 and 114 are observed. Participating political committees shall make their contributor records available to the fundraising representative to enable the fundraising representative to carry out its duty to screen contributions.

(ii) The fundraising representative shall collect and retain contributor information with regard to gross proceeds as required under 11 CFR 102.8 and shall also forward such information to participating political committees. The fundraising representative shall also keep a record of the total amount of contributions received from prohibited sources, if any, and of all transfers of prohibited contributions to participants that can accept them.

(iii) The fundraising representative shall retain the records required under 11 CFR 102.9 regarding fundraising disbursements for a period of three years. Commercial fundraising firms or agents shall forward such information to the fundraising representative.

(5) *Contribution limitations.* Except to the extent that the contributor has previously contributed to any of the participants, a contributor may make a contribution to the joint fundraising effort which contribution represents the total amount that the contributor could contribute to all of the participants under the applicable limits of 11 CFR 110.1 and 110.2.

(6) *Allocation of gross proceeds.* (i) The fundraising representative shall allocate proceeds according to the formula stated in the fundraising agreement. If distribution according to the allocation formula extinguishes the debts of one or more participants and results in a surplus for those participants or if distribution under the formula results in a violation of the contribution lim-

its of 11 CFR 110.1(a), the fundraising representative may reallocate the excess funds. Reallocation shall be based upon the remaining participants' proportionate shares under the allocation formula. If reallocation results in a violation of a contributor's limit under 11 CFR 110.1, the fundraising representative shall return to the contributor the amount of the contribution that exceeds the limit.

(ii) Designated contributions which exceed the contributor's limit to the designated participant under 11 CFR part 110 may not be reallocated by the fundraising representative absent the prior written permission of the contributor.

(iii) If any participants can lawfully accept contributions from sources prohibited under the Act, any such contributions that are received are not required to be distributed according to the allocation formula.

(7) *Allocation of expenses and distribution of net proceeds.* (i) If participating committees are not affiliated as defined in 11 CFR 110.3 prior to the joint fundraising activity and are not committees of the same political party;

(A) After gross contributions are allocated among the participants under 11 CFR 102.17(c)(6), the fundraising representative shall calculate each participant's share of expenses based on the percentage of the total receipts each participant had been allocated. If contributions from sources prohibited under the Act have been received and distributed under 11 CFR 102.17(c)(6)(iii), those contributions need not be included in the total receipts for the purpose of allocating expenses under this section. To calculate each participant's net proceeds, the fundraising representative shall subtract the participant's share of expenses from the amount that participant has been allocated from gross proceeds.

(B) A participant may only pay expenses on behalf of another participant subject to the contribution limits of 11 CFR part 110.

(C) The expenses from a series of fundraising events or activities shall be allocated among the participants on a per-event basis regardless of whether

the participants change or remain the same throughout the series.

(ii) If participating committees are affiliated as defined in 11 CFR 110.3 prior to the joint fundraising activity or if participants are party committees of the same political party, expenses need not be allocated among those participants. Payment of such expenses by an unregistered committee or organization on behalf of an affiliated political committee may cause the unregistered organization to become a political committee.

(iii) Payment of expenses may be made from gross proceeds by the fundraising representative.

(8) *Reporting of receipts and disbursements*—(i) *Reporting receipts.* (A) The fundraising representative shall report all funds received in the reporting period in which they are received. The fundraising representative shall report the total amount of contributions received from prohibited sources during the reporting period, if any, as a memo entry. Each Schedule A filed by the fundraising representative under this section shall clearly indicate that the contributions reported on that schedule represent joint fundraising proceeds.

(B) After distribution of net proceeds, each participating political committee shall report its share of net proceeds received as a transfer-in from the fundraising representative. Each participating political committee shall also file a memo Schedule A itemizing its share of gross receipts as contributions from original contributors to the extent required under 11 CFR 104.3(a).

(ii) *Reporting disbursements.* The fundraising representative shall report all disbursements in the reporting period in which they are made.

[48 FR 26301, June 7, 1983, as amended at 56 FR 35909, July 29, 1991; 67 FR 49112, July 29, 2002]

PART 103—CAMPAIGN DEPOSITORIES (2 U.S.C. 432(h))

Sec.

103.1 Notification of the commission.

103.2 Depositories (2 U.S.C. 432(h)(1)).

103.3 Deposit of receipts and disbursements (2 U.S.C. 432(h)(1)).

103.4 Vice Presidential candidate campaign depositories.

AUTHORITY: 2 U.S.C. 432(h), 438(a)(8).

SOURCE: 45 FR 15108, Mar. 7, 1980, unless otherwise noted.

§ 103.1 Notification of the commission.

Each committee shall notify the Commission of the campaign depository(ies) it has designated, pursuant to 11 CFR 101.1 and 103.2.

§ 103.2 Depositories (2 U.S.C. 432(h)(1)).

Each political committee shall designate one or more State banks, federally chartered depository institutions (including a national bank), or depository institutions the depositor accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. One or more depositories may be established in one or more States. Each political committee shall maintain at least one checking account or transaction account at one of its depositories. Additional accounts may be established at each depository.

§ 103.3 Deposit of receipts and disbursements (2 U.S.C. 432(h)(1)).

(a) All receipts by a political committee shall be deposited in account(s) established pursuant to 11 CFR 103.2, except that any contribution may be, within 10 days of the treasurer's receipt, returned to the contributor without being deposited. The treasurer of the committee shall be responsible for making such deposits. All deposits shall be made within 10 days of the treasurer's receipt. A committee shall make all disbursements by check or similar drafts drawn on an account at its designated campaign depository, except for expenditures of \$100 or less made from a petty cash fund maintained pursuant to 11 CFR 102.11. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before such funds are used to make expenditures.

(b) The treasurer shall be responsible for examining all contributions received for evidence of illegality and for