

The FEC's Safe Harbor Policy for Misreporting Due to Embezzlement

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In response to a recent increase in the number of enforcement actions that involve the misappropriation of committee funds, the FEC published a Statement of Policy on April 5, 2007, outlining a series of precautionary steps for PACs to take to protect themselves from potential liability. Under this new Statement of Policy, the FEC will not hold a committee liable for reporting errors arising out of an employee's misappropriation of committee funds provided that the committee adopts certain safeguards. These safeguards—which are detailed below—were developed based on general accounting principles and in consultation with other government agencies and the regulated community. If a committee adopts some—but not all—of the following safeguards, the FEC will consider that as a mitigating factor in determining the amount of liability resulting from the misappropriation.

Specifically, in order to be completely protected under the safe harbor, a PAC must adopt each of the following internal controls as part of its regular operating procedure:

- All bank accounts are opened in the name of the committee, never an individual, using the committee's Employer Identification Number, not an individual's Social Security Number.
- Bank statements are reviewed for unauthorized transactions and reconciled to the accounting records each month. Further, bank records are reconciled to disclosure reports prior to filing. The reconciliations are done by someone other than a check signer or an individual responsible for handling the committee's accounting.

Authors

Andrew G. Woodson
Partner
202.719.4638
awoodson@wiley.law

- Checks in excess of \$1,000 are authorized in writing and/or signed by two individuals. In addition, all wire transfers are authorized in writing by two individuals. The individuals who may authorize the disbursement checks should be identified in writing in the committee's internal policies.
- An individual who does not handle the committee's accounting or have banking authority receives incoming checks and monitors all other incoming receipts. This individual makes a list of all committee receipts and places a restrictive endorsement, such as: "For Deposit Only to the Account of the Payee" on all checks.
- If the committee has a petty cash fund, an imprest system is used, and the value of the petty cash fund should be no more than \$500.

In addition to these preventative measures, the political committee must notify both the FEC and relevant law enforcement officials of the misappropriation as soon as it is discovered in order to qualify for the safe harbor. Finally, the PAC must file reports to correct any reporting errors due to the misappropriation. The statement of policy can be found at: http://www.fec.gov/law/cfr/ej_compilation/2007/notice_2007-9.pdf .