

FEC Issues Guidance for PACs Seeking to Make Independent Expenditures

November 2011

In August 2011, *Carey v. FEC* effectively mandated that the Federal Election Commission (FEC) permit nonconnected political action committees (PACs) to accept unlimited contributions from corporations and labor organizations for the sole purpose of making independent expenditures in connection with federal elections, on the condition that the funds be maintained in a separate bank account.

The FEC recently released a much anticipated statement on *Carey v. FEC* that provides reporting guidance for nonconnected PACs choosing to maintain a separate bank account - called a non-contribution account - for the sole purpose of making independent expenditures.

A nonconnected PAC registered with the FEC may now create a non-contribution account to accept unlimited contributions from individuals, other political committees (including state or local political committees), corporations and labor organizations to be used only for independent expenditures.

In order to maintain a non-contribution account, a nonconnected PAC must:

- Deposit the contributions into a separate bank account for the sole purpose of financing independent expenditures, other advertisements that refer to a federal candidate and generic voter drives;
- Maintain the non-contribution account separate from any other account that receives contributions that are limited to federally permissible sources and subject to the federal contribution limits for the purpose of making contributions to federal candidates; and
- Allocate administrative expenses between accounts based on the percentage of activity for each account.

A nonconnected PAC planning to create and operate a non-contribution account must first inform the FEC in writing of its intent to do so. A nonconnected PAC also must report all of the activity out of its non-contribution account with the FEC on its disclosure reports:

- All contributions should be disclosed as receipts on Schedule A supporting Line 17 of the FEC Form 3X and "non-contribution account" should be noted in the description field or as memo text attached to that entry.

- Independent expenditures should be disclosed on Schedule E of the FEC Form 3X with "non-contribution account" included in the description field or as memo text attached to that entry.
- All other disbursements from the non-contribution account, such as those for administrative and operating expenditures, should be disclosed on Schedule B supporting Line 29 of the FEC Form 3X, and "non-contribution account" should be noted in the description field or as memo text attached to that entry.