# ADDENDUM D



## FEDERAL ELECTION COMMISSION

1325 K STREET N.W. WASHINGTON, D.C. 20463

March 29, 1978

#### MEMORANDUM

TO:

The Commissioners

THRU:

Orlando B. Potter, Staff Director

FROM:

Mark Gersh, Director, Planning & Management My

SUBJECT:

Proposed Revised FEC Form 5 (Report of Independent

Expenditures by Persons)

The Office of Planning and Management has completed its review and revision of FEC Form 5, however, in the course of this process, it has been suggested that the Commission might consider a recommendation which would change the reporting system used in the past to improve disclosure of independent expenditures made by persons other than political committees. In order to receive definitive guidance concerning the direction the Commission wishes to proceed during the 1978 election cycle, we have prepared for consideration three alternative reporting formats. The following analysis and explanation of each alternative has also been prepared for your review.

AGENDAITEM
For Meeting of: Capable 6,1978
Agenda Item No:
Exhibit No:

7905050526

# ALTERNATIVE NO. 1

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The attached draft essentially follows the reporting scheme used by the Commission during 1976 and 1977. Under that system, an individual reports, by means of a check-off, that either an independent expenditure or a contribution to an independent expenditure was made. The person reporting must also disclose the payee, the particulars, date, amount and candidate supported or opposed. This reporting scheme follows Parts 109.2 and 109.5 of the Commission's regulations, however, this system presumes that the amount disclosed is derived from personal funds (in the case where only an expenditure is reported) or that, in the case where money expended is not from personal funds, all contributors are aware of and do report the contribution. To illustrate, if five individuals join to make an independent expenditure and four "contribute" to the fifth who then makes the expenditure, the Commission can only assume that the four will report their contributions, while the fifth will report the expenditure. Furthermore, under this system, the disclosure of the expenditure should be the total; however, the fifth person technically need only report his or her one-fifth share.

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Proposed Revised FEC Form 5
Page 3

March 29, 1978

#### ALTERNATIVE NO. 2

This alternative as drafted differs from the former only in terms of format, where contributions to independent expenditures are separated from the disclosure of the expenditure. Under this format, individuals who contribute to the independent expenditure would disclose the contribution (i.e. payee, particulars, date, amount and candidate) on line 6 while the individual making the expenditure discloses the same information on line 7. As in the case of Alternative No. 1, this scheme follows the reporting requirements set forth in Part 109 of the Commission's regulations and includes provisions for notarization on its face. Alternative No. 2 is offered for approval in the event the Commission elects this reporting scheme.

#### ALTERNATIVE NO. 3

The attached draft which supports this alternative represents a substantial departure from the reporting schemes presented above and one which extends beyond Part 109 as written. However, this alternative does seem to be allowed by the Act. As proposed, it would eliminate the assumption which the Commission must now make that all individuals who

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make contributions toward independent expenditures are aware of the need to and in fact report to the Commission. What this alternative accomplishes is to fix responsibility upon the individual who makes the actual expenditure to disclose the source of funds which comprise the expenditure if they are derived from sources other than his or her own personal funds. Thus if four individuals give money to a fifth who combines that amount with his own (or merely takes the money of others) to make the independent expenditure that person must identify the other four on line 6 and the details of the expenditure on line 7. The authority to require the disclosure of this level of details seems clear from 2 U.S.C. Section 434(e)(1). The applicable phrase, states "Every person who makes contributions or independent expenditures....shall file with the Commission, on a form prepared by the Commission, a statement containing...the information required of a candidate or political committee receiving such a contribution." This seems to imply that both the contributor and expendor, must report. In the event the Commission elects to select this reporting scheme, Alternative No. 3 is offered for approvals. In addition, if this option is selected, Part 109 of the regulations must be changed.

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NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the panalties of 2 U.S.C. Saction 4Dig or Section 441) (See reverse side or form).

For further information

contact:

Federal Election Commission 1325 N Street, N.W. Wishington, D.C. 20460 800-424-9500

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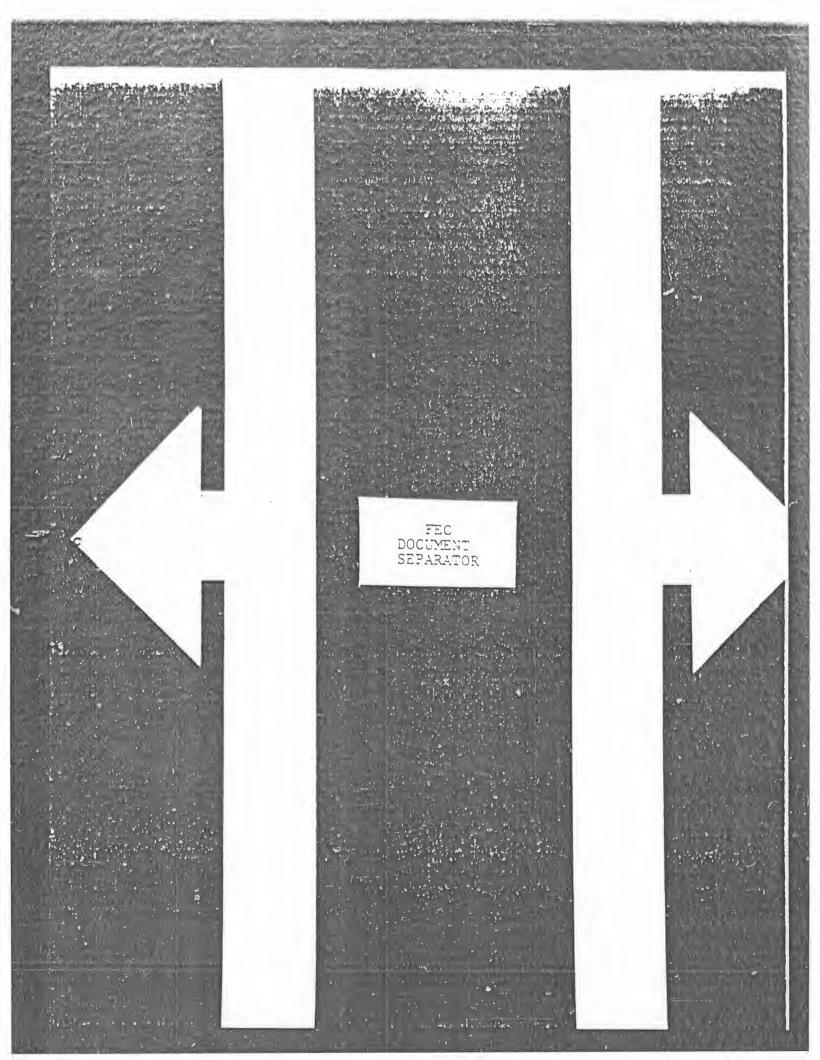
AITERNATING - #5

MARCH, 1978 FEDGRAL LICETION COMMISSION 1325 K STREET NW WASHINGTON, DC 20163 REPORT OF INDEPENDENT EXPENDITURES.

AND/OR CONTRIBUTIONS BY PERSONS

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For further information concact:	Federal Election Commission 1325 K Street, N.W. Washington, D.C. 13463 830-22-650	Any information reported herein have not be copied for sale or use by any person for purposes of soliciting contributions or fur any commercial purpose.



#### FEDERAL ELECTION COMMISSION

#### REGULAR MEETING

THURSDAY, APRIL 6, 1978 10:00 A. M.

#### **AGENDA**

- I. FUTURE MEETINGS
- II. \*CORRECTION AND APPROVAL OF MINUTES MARCH 30, 1978
- III. ADVISORY OPINIONS
  - \*A. AO 1978-12. Agenda Document #78-89 circulated March 31
  - \*B. AO 1978-17. Agenda Document #78-90 circulated March 31
  - \*C. AO 1978-19. Agenda Document #78-91 circulated March 31
  - \*D. AO 1977-37. Agenda Document #78-96 circulated April 4
- IV. \*DEBT SETTLEMENT PROCEDURES Agenda Document #78-95 circulated April 4
- V. PROCEDURES FOR INTERNALLY GENERATED MATTERS
- VI. \*PROPOSAL FOR EXPEDITING COMMISSION CONSIDERATION OF COMPLIANCE MATTERS Agenda Document #78-93 circulated April 3
- VII. \*COMMISSION AUDIT POLICY. Agenda Document #78-94 circulated April 3
- VIII. \*PROPOSED REVISED FEC FORM 5 (Report of Independent Expenditures by Persons). Agenda Document #78-88 circulated March 31
- IX. FOIA REGULATIONS
- X. APPROPRIATIONS AND BUDGET
- XI. PENDING LEGISLATION
- XII. PENDING LITIGATION
- XIII. LIAISON WITH OTHER FEDERAL AGENCIES
- XIV. CLASSIFICATION ACTIONS
- XV. ROUTINE ADMINISTRATIVE MATTERS

#### MINUTES OF A REGULAR MEETING

OF THE

#### FEDERAL ELECTION COMMISSION

THURSDAY, APRIL 6, 1978

PRESENT: Thomas E. Harris, Chairman, Presiding

Joan D. Aikens, Vice Chairman

William L. Springer, Commissioner

Neil Staebler, Commissioner

Robert Tiernan, Commissioner

Special Deputy to the Secretary of the Senate, Harriet Robnett, representing J. S. Kimmitt, Commissioner Ex-Officio

Special Deputy to the Clerk of the House Douglas Patton, representing Edmund L. Henshaw, Commissioner Ex-Officio

Orlando B. Potter, Staff Director

William C. Oldaker, General Counsel

Wendy McGhee Graham, Recording Secretary of the Meeting (Open Session)

Marjorie W. Emmons, Secretary to the Commission (Executive Session) 41

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April 6, 1978

#### VIII. PROPOSED REVISED FEC FORM 5

Federal Election Commission

Minutes for Thursday,

Chairman Harris stated that Agenda Document No. 78-88, containing "Proposed Revised FEC Form 5", had been labeled Exhibit VIII for April 6, 1978, and was before the Commission for discussion and action.

Chairman Harris recognized Deputy Director of Planning and Management, John Bronish, who reviewed the document and answered questions. Discussion was held.

Without objection, it was agreed to amend the title on Form 5 as follows:

### Lines 3 and 4:

"(To Be Used By An Individual Or A Person Other Than Political Committee)".

Chairman Harris recognized Commissioner Tiernan, who

MOVED adoption of Alternative 2, of the Proposed Revised FEC Form 5 as set forth in Agenda Document No. 78-88, as amended this date.

The motion carried unanimously. (5-0)

#### IX. FOIA REGULATIONS

No report given.

## X. APPROPRIATIONS AND BUDGET

No report given.