

August 5, 2019

Federal Election Commission
Lisa J. Stevenson, Acting General Counsel
Office of General Counsel
1050 First Street NE
Washington, DC 20463

Petition to Promulgate Rules on Reporting of “Cromnibus” Accounts

Dear Ms. Stevenson,

Under current Federal Election Commission (FEC) regulations, the public has no way to accurately determine the amount of money received and spent by national party committees through special-purpose accounts maintained pursuant to the 2015 appropriations bill (so-called “Cromnibus” accounts).¹ Even the most basic facts about these accounts — such as their cash-on-hand balances — are not publicly available.

This absence of information violates the Commission’s statutory mandate. *See* 52 U.S.C. § 30104. Therefore, and pursuant to 11 C.F.R. § 200.2, Campaign Legal Center (CLC) and the Center for Responsive Politics (CRP) respectfully petition the Commission to promulgate rules to specifically require reporting of the special-purpose accounts.

Background

In 2015, Congress enacted the Consolidated and Further Continuing Appropriations Act of 2015 (also known as the “Cromnibus”), which gave national party committees the ability to establish three separate special-purpose accounts — one for presidential nominating conventions, one for party headquarters buildings, and one for legal proceedings. 52 U.S.C.

¹ Pub. L. No. 113-235, 128 Stat. 2130, 2772 (2014).



§ 30116(a)(9). The national party committees may accept contributions to each of these accounts in amounts up to 300% of the otherwise-applicable contribution limit. 52 U.S.C. §§ 30116(a)(1)(B), (a)(2)(B). Because each national party has three committees — the national committee, the congressional committee, and the senatorial committee — each of which operates 2 or 3 accounts, each party now operates up to *seven* new accounts, *each* with 300% of the typical contribution limit. In the 2020 election cycle, that limit is \$106,500, per account, per year.

The Commission has been nominally considering a rulemaking to implement the 2015 legislation for several years.² But because the Commission has not promulgated any such rules, each national party committee reports its receipts to and disbursements from the accounts in inconsistent and insufficient ways. As a result, it is effectively impossible for the public to track the large quantities of funds flowing into and out of the accounts. Whatever obstacles the Commission may face to completing the full rulemaking, it should be easy for the Commission at least to promulgate simple and straightforward reporting regulations.

Current Reporting Methods

Every political committee is required to file periodic reports that include the committee's total receipts, total disbursements, and cash-on-hand for the reporting period and election cycle to-date. The national party committees, however, report none of these figures for their special-purpose accounts.

Instead, if a member of the public wants to get information about total receipts, disbursements, and cash-on-hand for a national party committee's special-purpose account, they need to search the committee's monthly reports — typically thousands of pages long — and compile each transaction that refers to the accounts. This task, which would be onerous and extremely time-consuming under the best of circumstances, is made essentially impossible by the fact that there is no consistent location or terminology that

² FEC, Rulemaking Petition: Implementing the Consolidated and Further Continuing Appropriations Act, 2015, 81 Fed. Reg. 69722 (Oct. 7, 2016); FEC Agenda Doc. 15-54-B (Oct. 23, 2015), https://www.fec.gov/resources/updates/agendas/2015/mtgdoc_15-54-b.pdf.

committees use to denote transactions involving the special-purpose accounts. As described below, committees use a mix of the memo, purpose, and “receipt for”/“disbursement for” sections of the FEC Schedule A and B forms to indicate such transactions. And their terminology also varies so significantly as to defeat efforts to automate the data-collection process. One simple example is that some reports refer to the party headquarters account using the note “hq,” while others use “headquarters.”

Here are some examples of the inconsistent ways in which these committees report on these accounts:

- For both receipts and disbursements, the Republican National Committee (RNC) usually seems to write out “headquarters account” in the memo text of an entry.³
- For disbursements, the National Republican Senate Committee (NRSC) and the National Republican Congressional Committee (NRCC) might write “hq account - subscriptions” or “headquarters acct - maintenance” (for example) in the purpose line and no memo text.⁴ However, for receipts, the NRSC and NRCC might write memo text, like “legal proceedings account” or “headquarters account.”⁵ These

³ Republican National Committee, 2019 June Monthly, FEC Form 3X, at 7954, 7965 (filed June 20, 2019), <https://docquery.fec.gov/pdf/623/201906209150190623/201906209150190623.pdf>.

⁴ NRSC, Disbursements to Lexis Nexis from “Headquarters Acct”, 2017-18, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00027466&recipient_name=lexis+nexis&two_year_transaction_period=2018&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018 (last visited July 9, 2019); NRCC, Disbursements to Lexis Nexis from “HQ Acct,” 2017-18, FEC.GOV, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00075820&recipient_name=lexis+nexis&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018&disbursement_description=headq&disbursement_description=hq (last visited July 8, 2019).

⁵ National Republican Senate Committee, 2019 June Monthly, FEC Form 3X, at 3004 (filed June 20, 2019), <https://docquery.fec.gov/pdf/587/201906209150150587/201906209150150587.pdf>; National Republican Congressional Committee, 2019 June Monthly, FEC Form 3X, at 3274 (filed June 20, 2019), <https://docquery.fec.gov/pdf/020/201906209150165020/201906209150165020.pdf>.

committees sometimes employ different terminology even within a single report, more examples of which are below.

- For disbursements, the Democratic Congressional Campaign Committee (DCCC) might write “headquarters software” or “headquarters equip rental/lease” in the purpose field,⁶ while for receipts, the DCCC might check “other” in the “receipt for” section, write “headquarters account” in that section, and/or include an indicator stating “building fund/headquarters contribution” in memo text.⁷
- For disbursements, the Democratic National Committee (DNC) might write something like “headquarters account” in the purpose line, with no memo text.⁸ For receipts, the DNC (like the DCCC but unlike the RNC) might check “other” in the “receipt for” section and write “headquarters account” in that section.⁹ But even this is inconsistent with the DNC's previous reporting method. For example, the DNC previously wrote “legal account” in the memo text for disbursements and provided descriptions (e.g., “govt canvassing”) in the purpose line.¹⁰ (Temporal inconsistencies in how committees report these accounts may also exist for other committees in addition to the DNC.)

As previously mentioned, some reports are even internally inconsistent. For example, in their June 2019 monthly filings, the NRSC and NRCC used the term “headquarters account” in one part of the report, but “hq account –

⁶ Democratic Congressional Campaign Committee, 2019 June Monthly, FEC Form 3X, at 21778 (filed June 20, 2019), <https://docquery.fec.gov/pdf/873/201906209150199873/201906209150199873.pdf#navpanes=0>.

⁷ *Id.* at 21098.

⁸ Democratic National Committee, 2019 June Monthly, FEC Form 3X, at 3670 (filed June 20, 2019), <https://docquery.fec.gov/pdf/674/201906219150234674/201906219150234674.pdf#navpanes=0>.

⁹ *Id.* at 3351.

¹⁰ Democratic National Committee, 2017 March Monthly, FEC Form 3X, at 2037 (filed March 20, 2017), <https://docquery.fec.gov/pdf/247/201703209050964247/201703209050964247.pdf#navpanes=0>.

maintenance” and “hq acct – computer support,” respectively, in another.¹¹ Similarly, in its May 2019 monthly filing, the DNC used “hq account” and “headquarters accoung” on the same page. (The spelling of “accoung” is clearly an error, but “headquarters” is still different than “hq”).¹²

In sum, committees use different placements and terminology for transactions related to these Cronibus accounts and are not even necessarily consistent within their own reports. Because of these inconsistencies, there is no simple way for any member of the public — even the most sophisticated users of FEC data — to determine the amounts of money being received into and disbursed from the special-purpose accounts.

To determine the cash-on-hand balance of any of the accounts is, in a word, infeasible. Calculating such a balance would require a user to manually review every monthly filing for the relevant national party committee since the Cronibus was enacted in 2015, compile every receipt and every disbursement from the account, and subtract the latter from the former. In doing so, to avoid double-counting, the user would need to separate out all the disbursement entries that are listed with itemized subentries. For example, the NRCC’s May 2019 report lists a payment to American Express with a purpose description of “hq acct - credit card payment” for \$25,124.78.¹³ The next several entries are itemizations of this payment to American Express, and thus are excluded from the subtotal calculation at the bottom of the report page.¹⁴ But a user who has conducted a disbursement search for “hq”

¹¹ National Republican Senate Committee, 2019 June Monthly, FEC Form 3X, at 2963, 30004 (filed June 20, 2019), <https://docquery.fec.gov/pdf/587/201906209150150587/201906209150150587.pdf>. National Republican Congressional Committee, 2019 June Monthly, FEC Form 3X, at 3105, 3182 (filed June 20, 2019), <https://docquery.fec.gov/pdf/020/201906209150165020/201906209150165020.pdf>.

¹² Democratic National Committee, 2019 May Monthly, FEC Form 3X, at 2532 (filed May 20, 2019), <https://docquery.fec.gov/cgi-bin/fecimg/?201906209150231905>.

¹³ National Republican Congressional Committee, 2019 May Monthly, FEC Form 3X, at 2705-06 (filed May 20, 2019), <https://docquery.fec.gov/pdf/327/201905209149772327/201905209149772327.pdf#navpanes=0>.

¹⁴ *Id.*

and is working with the results of that search might not realize that some of these are itemized subentries, and so the disbursements would be double-counted.

In any event, for the Commission to require users to conduct manual, painstaking, line-by-line review of thousands of entries across several years just to determine the cash-on-hand balance of a federal account is an abdication of the Commission's responsibilities.

Request for Rulemaking

Millions of dollars are flowing through the Cronibus accounts, and the public has a statutory right to the corresponding financial information. *See* 52 U.S.C. § 30104. The lack of any regulations governing the reporting of these accounts means national party committees are disclosing their receipts and disbursements in a non-uniform, unclear, and insufficient manner. In addition to effectively concealing information from the general public, this lack of standardized reporting poses a concrete obstacle to the work of nonprofit watchdog organizations like CLC and CRP, as well as investigative journalists who cover the national party committees.

We respectfully request that the FEC promulgate rules and forms requiring national party committees to delineate within their reports the individual and aggregate transactions involving their Cronibus accounts. For example, the Commission could promulgate a new schedule to the national parties' monthly reports under section 30111(a)(1), or an effective "cross-indexing system" under section 30111(a)(3). The Commission could also issue guidelines on uniform terminology for all committees to use under section 30111(a)(2).

CLC and CRP respectfully request that the Commission promptly publish a Notice of Availability of this petition in the Federal Register, and initiate a rulemaking to consider promulgating regulations on how committees should report their “Cromnibus” accounts. 11 C.F.R. §§ 200.3(a)(1), 200.4(a).

Respectfully submitted,

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