

## **Regulated Environment**

### **Chapter Six**

#### **Regulatory Enforcement: An Examination**

##### **Section One: Overview**

The structure of the agency, the purposes of the individual components of the regulatory agency, and the agency's decision-making structures were examined in previous chapters. Once agency administrators have interpreted their statutory charge and structured their agency, regulatory agencies must ultimately enforce these same laws and regulations. The regulated constituency is the constituency against whom the policy decisions of regulatory agencies are ultimately applied. In the present examination, the regulated constituency consists of the candidates, political action committees, corporations, foundations, the national political party committees, and others that the Federal Election Commission is charged with regulating.

As rational actors, or political entities operated by rational actors, the component parts of the regulated constituency each pursue their own self interests. As such, when an individual component part of the regulated constituency views that the cost of not following the regulatory agency's interpretation of the law is minimal, then that actor may proceed to act under their own interpretation of the federal campaign finance law. On the other hand, if the cost of violating the regulatory agency's interpretation of the law is deemed greater than the benefit achieved by not following the agency's

interpretation of the law, then the rational actor will tend to follow the agency's interpretation of the law.

The costs associated with violating federal campaign finance law are not solely financial. The reputations and public perception of political figures, political parties, corporations, organizations, and others, are clearly involved in this calculus. And, some simple mistakes by component parts of the regulated constituency do occur without any cost-benefit analysis. That said, political animals tend to "go for it" when winning is on the line and they can "get away with it," so absent significant enforcement related consequences, the component parts of the regulated constituency will likely follow their own rational self interests. The resulting conclusion that can be reached is that the component parts of the agency's regulated constituency must tacitly consent in order for the regulatory enforcement process to function properly.

Enforcement efforts on the part of the Federal Election Commission constitute the agency's most common type of regulatory decision. As was demonstrated in the previous chapter, the decision processes of the Federal Election Commission are greatly constrained due to technical issues, social values and myths, the largeness or smallness of alternative points of decision for appeal, and the nature of whether the interaction was a single or repeat occurrence.<sup>1</sup> In the case of the Federal Election Commission, the political structure of the regulatory agency and fiscal resources available to the agency appear to have greatly impacted the agency's ability to enforce the law in a more comprehensive manner. As a result, the regulated constituency appears to have been able to

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<sup>1</sup> Ibid., p. 31.

reasonably interpret that violating certain portions of the federal campaign finance law will result in minimal, if any, consequence.

**Background on FEC Enforcement:**

From the inception of the Federal Election Commission until late 1993, the agency proceeded to enforce all portions of the Federal Election Campaign Act. This meant that both internally and externally generated complaints were filed against the regulated constituency on all types of allegations. Further, the agency proceeded to try to act on all of these complaints. According to former FEC Chairman Scott E. Thomas, all complaints were assigned to attorneys upon receipt of the complaint.<sup>2</sup> However, as additional cases were received, "[p]iling additional cases on staff simply meant that all cases suffered."<sup>3</sup> All of this was supposed to change, however, when the Federal Election Commission adopted an Enforcement Prioritization System (EPS) in December of 1993.

For a number of years, the FEC had attempted to cope with the combination of fiscal constraints and a growing workload. According to Commissioner Thomas, the FEC had "adopted internal guidelines for when staff reports are due, cut back on extensions of time granted to respondents' counsel, added additional enforcement teams, computerized operations, and streamlined many procedures. But these measures have not been able to fully stem the impact of the

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<sup>2</sup> Remarks by then FEC Chairman Scott E. Thomas, presented at the Press Conference on Enforcement Prioritization, National Press Club, December 13, 1993, p. 5.

<sup>3</sup> Ibid.

most recent workload increases."<sup>4</sup> The agency was struggling to meet its statutory obligations. As a result, the agency sought to act through its prosecutorial discretion to change the situation through the creation of the Enforcement Prioritization System.

The Enforcement Prioritization System that the Federal Election System adopted was designed to achieve five goals, each of which was supposed to strengthen agency enforcement of the FECA within the regulated constituency. First, the agency would create a "detailed and objective ranking of cases that will [would] allow the FEC to objectively identify cases that best warrant the use of limited FEC resources."<sup>5</sup> Second, the agency would determine the number of cases that "enforcement staff can actively and efficiently pursue at one time."<sup>6</sup> Third, the agency set out to establish "realistic time goals for resolving cases."<sup>7</sup> Specifically, the agency goal was to resolve compliance matters within the election cycle in which the complaint was filed, or shorter, if possible.<sup>8</sup> Fourth, the agency was to undertake "periodic priority evaluations so that staff resources can be adjusted as needed and cases that warrant no further Commission resources can be identified for closing."<sup>9</sup> Lastly, the EPS called for, "[c]reating a

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<sup>4</sup> Ibid., p. 3.

<sup>5</sup> FEC Press Release: "Main Elements of Federal Election Commission's New Priority System to Strengthen Enforcement." December 13, 1993.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

central enforcement docket system to process and assign incoming cases as staff becomes [became] available."<sup>10</sup>

The Enforcement Prioritization System was an attempt by the Federal Election Commission to streamline the agency's enforcement practices. In essence, the agency's implementation of EPS was an attempt to function in a more efficient manner. The existing compliance process, combined with budgetary and staffing constraints had forced the agency to change. According to Former Chairman of the Federal Election Commission, Scott E. Thomas, "[a]t the heart of this new system is the principle that we are going to operate more efficiently by pursuing the most significant cases."<sup>11</sup> But is the agency operating in a more efficient manner?

The agency had grown in statutory responsibility over the years, as the Congress enacted more provisions of the law. With this increased statutory responsibility came increased fiscal and staffing resources. From the agency's perspective, the fiscal and staffing resources were not enough to outstrip the agency's increasing responsibility to interpret, implement, and enforce, the Federal Election Campaign Act. During the 1970s and 1980s, the agency's workload continued to pile up due to a rise in the number of political action committees, while the agency's budget continued to be restricted by the Congress. Added to this ever-expanding sphere of political action committees has been an increasing complexity of the transactions taking place in the political economy that the agency has been

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<sup>10</sup> Remarks by Scott E. Thomas, then Chairman of the Federal Election Commission, presented at the Press Conference on Enforcement Prioritization, National Press Club, December 13, 1993, p. 6.

<sup>11</sup> Ibid., p. 6.

charged with regulating. By its own admission, prior to the EPS, the FEC had been attempting to resolve all enforcement actions by reaching conciliation agreements or by resorting to the courts and litigation.<sup>12</sup> Former FEC Chairman Thomas stated that the result was that, "in trying to do a thorough job in all cases, we eventually ended up doing a slow job in all cases. And we found ourselves pursuing more and more matters that simply weren't worth anyone's time."<sup>13</sup> The result was that the Federal Election Commission established a task force to examine the manner in which it was utilizing the agency's resources to further compliance with the Federal Election Campaign Act.

**The Enforcement Compliance Process:**

Compliance matters are allegations of violations of the federal campaign finance laws that are brought to the attention of the FEC. Compliance matters can arise in several ways. First, individuals can file sworn, notarized, complaints with the Federal Election Commission alleging a violation of federal campaign finance law. Second, allegations of campaign finance violations can be generated internally through the Reports Analysis Division or the Audit Division of the FEC. These internal allegations generally arise as a result of the agency's review of campaign finance filings, Presidential Audits, and "audits for cause." Third, the agency can receive referrals of alleged federal campaign finance violations from other governmental agencies. Lastly, individuals can bring allegations in which they may have been involved to the attention of the FEC via "*sua sponte*."

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<sup>12</sup> Ibid., p. 3.

<sup>13</sup> Ibid.

Once a non-internally generated, properly notarized, formal allegation of campaign finance violations has been received by the agency, the matter is assigned a Matter Under Review (MUR) number. Internally generated matters receive a MUR number when the Commission decides that the matter is worthy of opening a compliance case.

Internally generated matters are referred to the Commission by the Reports Analysis Division or the Audit Division. Items of concern that are raised by the Reports Analysis Division and the Audit Division are referred to the Office of the General Counsel for review before being sent to the Commission for a formal hearing. It is up to the Commission to determine if a formal Matter Under Review should be opened.

A single Commissioner can not bring a possible violation to the General Counsel's attention and expect the General Counsel to act. The General Counsel can only act upon a Commissioner's request when three other Commissioners concur with the request. As a result, the Commission has initiated compliance actions on its own at least twice. The first instance originated out of a 1992 Wall Street Journal article related to a whistle blower. The result of this case, often referred to as the Prudential case, was a \$500,000 fine. The second instance occurred when newspapers started running articles about foreign national contributions in 1996. Despite appearing as a "hot" topic in several major newspapers, no one had filed a complaint with the FEC. As a result, the Office of the General Counsel had not begun to investigate the foreign national contributions until the Commission, itself, voted to act. In both instances, the Commission referred the matter to the Office of the General Counsel to have the General Counsel recommend to the

Commission if any alleged violation was perceived to have occurred. The Commission could then vote to act or not act on the alleged violation.

On externally generated allegations, it is up to the General Counsel to make a recommendation to the Commission if there is "reason to believe" that the allegation actually took place.<sup>14</sup> If the Commission finds that there is "reason to believe" that an allegation took place, then the Commission will send letters to all of the parties involved in the complaint. The purpose of these letters is to notify the individual(s) that a formal complaint alleging federal campaign finance violations has been opened.<sup>15</sup> The Office of the General Counsel investigates each MUR that the Commission opens. Following their investigation, the Office of the General Counsel prepares a report detailing the issues involved in the MUR, and makes a formal recommendation to the Commission as to whether a violation has occurred.<sup>16</sup>

When the full Commission has four votes in favor of finding "probable cause to believe" that a violation of the law has occurred, then the agency proceeds to enter into a conciliation process in order to resolve the matter. When conciliation fails, the agency may move to the federal courts to litigate the matter.

It is important to note that the Commission can close any MUR at any point. The result is that some MURs may be closed at the "Reason to Believe" stage, or the "Probable Cause" stage, or at any other point in time during the compliance process, for any reason. Additionally, some cases

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<sup>14</sup> FEC Annual Report, FY 1998, p. 14.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

may be closed because they are deemed "stale" or "low priority."

**Enforcement Profiles:**

The creation of single allegation enforcement profiles will allow for a greater understanding as to what types of compliance matters are being considered, against whom these compliance matters are undertaken, by whom these compliance matters are initiated, and the types of dispositions that are involved. For instance, are political action committees, corporations, and the like, more likely to be involved in a compliance action than individuals or campaign committees? Are compliance actions more likely to be filed by complainants inside or outside of the Federal Election Commission? Further, when enforcement action is considered, is the agency more likely to find reason to believe if the compliance matter is internally generated or externally generated? Additionally, what types of compliance matters result in the agency taking no action? Finding the answers to each of these questions, among numerous others, will allow for a greater understanding of the types of enforcement activity that the agency is "considering significant." After all, the agency only acts on those complaints that it deems significant and closes all other cases due to efficiency concerns. From this profile, agency administrators, interest groups, policymakers, and others might be able to identify if the agency is meeting its statutory charge, and if the agency is prosecuting the "most significant cases."<sup>17</sup> Through this

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<sup>17</sup> Remarks by then FEC Chairman Scott E. Thomas, presented at the Press Conference on Enforcement Prioritization, National Press Club, December 13, 1993, p. 6.

greater understanding of the agency's activities, lawmakers might work to fashion improvements in the law to improve the function of the FECA or improvements in the workings of the agency, itself, or perhaps might chose to abolish the agency altogether or consolidate it with another agency.

At present, the Federal Election Commission does not possess such an enforcement profile. In fact, in January of 1999, the report commissioned by the United States Congress from PriceWaterhouse Coopers, concluded that the creation of an enforcement profile was one of the major steps necessary for understanding what the agency is enforcing and what improvements in the agency and our nation's federal election laws are necessary.

The creation of a set of single allegation enforcement profiles for the agency will allow researchers to better understand the manner in which enforcement of the FECA has changed over time. To accomplish this objective, two profiles will be offered examining enforcement actions closed by the FEC from April of 1989 through December 8, 1993 with enforcement actions closed by the FEC from December 9, 1993 through December of 1998.

**The Enforcement Profile Database:**

Data were gathered through the coding of press releases published by the FEC from April of 1989 through December of 1998. Press releases were utilized because they represent the agency's portrait of its enforcement activities that it has presented to the public. Further, the press releases serve as a summary of the agency's compliance activities. FEC press releases on Matters Under Review detail all allegations brought against all respondents, and the dispositions reached for each respondent, in a given Matter

Under Review. Due to limitations on the data, this dissertation develops single allegation enforcement profiles. To accomplish the single allegation enforcement profiles this dissertation utilizes FEC press release data where it was possible to clearly discern that a single allegation, and a single disposition for that allegation, was present.

For purposes of the enforcement profiles, data for respondents contained in press releases are not utilized when the press releases are unclear due to their assignment of a single disposition to respondents for whom multiple allegations are alleged. The reason for not utilizing this data is that in many instances it is not possible to clearly discern if the disposition that the press release assigns to the respondent corresponds to all allegations listed on the press release for that Matter Under Review, or if the disposition relates to one or more of the allegations. This dissertation's focus on single allegations is consistent with the belief that the Federal Election Commission, similar to other law enforcement and regulatory agencies, should consider individual allegations of violations of the law on an individual basis.

While more detailed information explaining the agency's compliance actions and individual allegations contained in closed Matters Under Review does in fact exist, the data are not in a readily useable format. The more detailed data are contained in tens of thousands, if not hundreds of thousands of pages of lengthy text. In fact, the Federal Election Commission recently began to clarify in their Matters Under Review press releases which disposition belongs with which allegation for each respondent when multiple allegations are alleged. Unfortunately, the data do not appear available in this format for the entire period of time under examination

in this dissertation. Perhaps at some point in the future the FEC will find a manner in which researchers will better be able to understand agency compliance activities beyond those pursued here within. But for now, the present database appears to be the best reasonable means for creating an FEC enforcement profile.

The time period covered by the profiles has been carefully selected. Prior to April of 1989, the utilized data do not exist in a useable format. And, December of 1998 represented a reasonable time cut off because it represented the last complete year for which data were readily available at the time. The data are divided into two time periods with a split after December 8, 1993, when the FEC implemented its Enforcement Prioritization System (EPS).

Two sets of single allegation enforcement profiles are set forth. The Single Allegation Pre-Enforcement Prioritization Profile covers the time period from April of 1989 to December 8, 1993. The Single Allegation Post-Enforcement Prioritization Profile covers December 9, 1993 through December of 1998. The purpose of the enforcement profiles is to present the reader with a further understanding about the types of allegations that the Federal Election Commission is enforcing, against whom these allegations are brought, by whom the allegations are brought, and the type of disposition that resolved these compliance matters. Included among these discussions are tables detailing the length of time in months that the Federal Election Commission took to resolve allegations by respondent, complainant, allegation type, and the like. Following these guidelines, the two sets of profiles will proceed to examine the data moving from the most general to the more specific.

Some specifics about the database. First, closed Matters Under Review (MURs) files may contain anywhere from one to several hundred Respondents. Since each Matter Under Review can contain numerous allegations of campaign violations logged by a Complainant, the allegations, not the Matter Under Review itself, serve as the unit of analysis. Lastly, in some instances the data that are detailed in the enforcement profiles may not total up to 100% due to rounding issues.

Respondents. A respondent is the individual against whom a complaint has been filed. The database codes respondents in four different categories: political action committees; individuals; corporations, foundations, organizations, schools, Indian tribes, and religious groups; and candidate campaign committees, national party committees, and other political committees, but excluding political action committees.

Complainants. Complainants are those individuals or organizations that file allegations of campaign finance law violations with the Federal Election Commission. Complainants were coded in the database as being internal, external, referral, or *sua sponte*. Internal or External refer to whether the complaint was generated internally by the Federal Election Commission or externally by someone outside the FEC, but excluding those referred by other governmental entities. Government agency referrals of allegations to the FEC are covered by a separate "referral" category. Lastly, *sua sponte* refers to instances where the Complainant is also included among the Respondents.

Allegations. Allegations range from corporate contributions, excessive contributions, failure to file a statement of candidacy, to problems relating to the filing of

disclosure reports. A detailed listing of the allegation subject codes can be found in the appendix. The dispositions for these allegations may include: the reaching of a Conciliation Agreement, or findings of Reason to Believe, Reason to Believe (Willful and Knowing), Probable Cause to Believe (Litigation Initiated), Probable Cause (No Further Action Taken), No Action Taken, No Reason to Believe, Declined to Open a Matter Under Review, Court Ruling, No Probable Cause, and Action Deferred/Took No Further Action.

Other. Three other variables were coded: Was the respondent sent an admonishment by the FEC? Second, was a penalty assessed? If so, how much? Ranges for penalties are included in the appendix. Lastly, the length of time in months that the agency took from the time the complaint was initiated until the complaint was closed.

**Section Two:**

**The Single Allegation Pre-Enforcement Prioritization System  
Enforcement Profile of the FEC  
April 1989 to December 8, 1993**

**By Respondent:**

The data contained in Table I indicate that the largest number of respondents involved in compliance cases before the Federal Election Commission are candidate, national party or other political committees.

Table I: Percentage of Allegations by Respondent Type

Candidate, National Party, or other Political Committees	37.56%
Individuals	24.44%
Political Action Committees	19.43%
Corporations, Organizations, <i>et al.</i>	17.96%
Respondent was Unclear	0.60%

The data contained in Table II below indicate the average length of time in months that it took for the Federal Election Commission to resolve allegations by the same respondent types.

Table II: Average Number of Months the FEC took to Resolve Allegations by Respondent Type

Candidate, National Party, or other Political Committees	11.36% Months
Individuals	15.56 Months
Political Action Committees	6.42 Months
Corporations, Organizations, <i>et al.</i>	17.67 Months
Respondent was Unclear	11.45 Months

**By Complainant:**

The data contained in Table III indicate that a majority of all allegations made during this time period were filed by individuals, political committees, or organizations outside the Federal Election Commission.

Table III: Percentage of Allegations Initiated by Complainant

Federal Election Commission	43.52%
Individuals, Organizations, <i>et al.</i> , Outside the Federal Election Commission	51.47%
Referred by Other Agency	3.63%
<i>Sua Sponte</i>	1.38%

Table IV indicates the average number of months that the FEC took to resolve these allegations by complainant type.

Table IV: Average Number of Months the FEC took to Resolve Allegations by Complainant Type

Federal Election Commission	9.61 Months
Individuals, Organizations, <i>et al.</i> , Outside the Federal Election Commission	13.69 Months
Referred by Other Agency	20.43 Months
<i>Sua Sponte</i>	42.50 Months

**By Disposition:**

The data indicate that the Federal Election Commission reached a conciliation agreement with respondents or found "Reason to Believe" that an allegation was true a majority of the time in the pre-prioritization time period covered by this database. A total of 37.31% of all allegations during this time were resolved through conciliation agreements. The second most common disposition for compliance case allegations during this time period was a finding of "Reason to Believe" at 18.74%. Slightly more than twenty-two percent of allegations (22.28%) resulted in Federal Election Commission findings of "No Reason to Believe." The Federal Election Commission took no action on an additional 16.49% of allegations. Additionally, 2.33% of allegations resulted in FEC findings of "Probable Cause to Believe," where litigation was initiated by the FEC. Another 1.04% of allegations saw the FEC decline to Open a MUR. The FEC applied the following

dispositions to one percent or less of all allegations: "No Probable Cause to Believe" that the allegation was true (.95%); "Probable Cause to Believe," but took no further action (.78%); and disposition was unclear (.09).

**By Allegation:**

Table V on the next page indicates that no single allegation appears dominant within the pre-enforcement prioritization time period covered by this database. In total, however, the top seven allegation categories constituted slightly more than eighty-five percent of all allegations lodged during this time period. These seven categories consist of contribution limit violations or excessive contributions, failure to register and file disclosure statements or statements of organization, the "other assorted allegations" category, corporate contributions or corporate expenditures, and failure to file 48-hour reports.

Table V: Breakdown of Allegation Type by Percentage

Failure to Register and File Disclosure Statements and Statements of Candidacy	23.66%
The "Other Assorted Allegations" Category	17.44%
Corporate Contribution or Expenditures	11.83
Contribution Limit Violations and Excessive Contributions	10.97%
Failure to File 48-Hour Reports	6.99%
Disclaimer Related Allegations	6.13%
Contributions in the Names of Others	4.23%
General Disclosure Related Allegations	3.02%
Other Contribution Violations and Prohibited Contributions	2.76%
Allegations Related to Independent Expenditures	2.16%
Advertising and Mailing Related Allegations	1.99%
Exceeding \$25,000 Annual Contribution Limit	1.47%
Foreign National Contributions	1.38%
Improper Use or Handling of Funds	1.30%

Improper Solicitations/Corporate Solicitations	1.04%
Influence Related Allegations	0.95%
Other Expenditures, Billing, and Allocation Related Allegations	0.78%
Allegations Related to Coordinated Expenditures	0.78%
Use or Transfer of Non-Federal Funds or Assets	0.69%
Crimes, Theft, Fraud, and Misrepresentation	0.17%
Assorted Committee Related Allegations	0.26%

Table VI on the next page indicates the average length of time in months that the FEC took to resolve these same allegations by allegation type.

Table VI: Average Number of Months the FEC took to Resolve Allegations By Allegation Type

Failure to Register and File Disclosure Statements and Statements of Candidacy	6.57 Months
The "Other Assorted Allegations" Category	16.96 Months
Corporate Contribution or Expenditures	18.00 Months
Contribution Limit Violations and Excessive Contributions	14.36 Months
Failure to File 48-Hour Reports	4.98 Months
Disclaimer Related Allegations	10.67 Months
Contributions in the Names of Others	22.41 Months
General Disclosure Related Allegations	10.57 Months
Other Contribution Violations and Prohibited Contributions	12.01 Months
Allegations Related to Independent Expenditures	22.24 Months
Advertising and Mailing Related Allegations	9.55 Months
Exceeding \$25,000 Annual Contribution Limit	22.67 Months
Foreign National Contributions	11.74 Months
Improper Use or Handling of Funds	7.75 Months
Improper Solicitations/Corporate Solicitations	7.87 Months
Influence Related Allegations	6.04 Months
Other Expenditures, Billing, and Allocation Related Allegations	8.98 Months
Allegations Related to Coordinated Expenditures	12.03 Months
Use or Transfer of Non-Federal Funds or Assets	18.26 Months
Crimes, Theft, Fraud, and Misrepresentation	15.43 Months
Assorted Committee Related Allegations	3.91 Months

Of all the allegations that were lodged during the pre-enforcement prioritization time-period covered by this study, nearly one-third of all allegations (32.64%) related to contributions. Included in this total percentage of contributions are: corporate contributions or corporate expenditures; contribution limitation violations or excessive contributions; contributions in the names of others; exceeding the \$25,000 annual contribution limitation; contributions by foreign nationals; contributions by minors; and other contribution related violations. The enforcement profile further indicates that 33.68% of all allegations during this time period related to campaign finance filings

and disclosure requirements. Included in this total are allegations related to registering campaign committees, general disclaimer related allegations, the filing of 24-hour reports, and the filing of 48-hour reports. When added together, this means that just under two-thirds of all allegations covered during the time period covered by this study were either contribution or disclosure related.

**FEC INITIATED ALLEGATIONS:**

The first class of complainants is the Federal Election Commission. The routine activities of the Federal Election Commission's Reports Analysis Division and the Audit Division serve as internal checks upon the regulated constituency to make sure that the federal campaign finance laws and regulations are being followed. The most common types of complaint that are internally generated by the Federal Election Commission are detailed in Table VII.

Table VII: Percentage of Top Allegations Initiated by the FEC

Failure to Register and File Disclosure Statements or Statements of Organization	49.60%
Contribution Limitation Violations or Excessive Contributions	17.26%
Failure to File 48-Hour Reports	15.48%
Corporate Contribution or Expenditures	4.76%

Table VIII below indicates the average number of months that it took for the FEC to resolve these same top allegations that it initiated.

Table VIII: Average Number of Months the FEC Took to Resolve  
FEC Took to Resolve the Top Allegations Initiated by the FEC

Failure to Register and File Disclosure Statements or Statements of Organization	6.47 Months
Contribution Limitation Violations or Excessive Contributions	15.77 Months
Failure to File 48-Hour Reports	4.75 Months

Corporate Contribution or Expenditures	10.81 Months
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Failure to register and file disclosure statements or statements of candidacy accounted for 49.60% of all Federal Election Commission generated allegations. Among these allegations, 67.20% were made against political action committees or campaign funds. Another 28% of these allegations were lodged against candidate, national, or other political committees, while .40% were alleged against individuals, and 4% were alleged against corporations, organizations, *et al.* The respondent for one allegation (.40%) was unclear.

Nearly all (94.64%) of the allegations of failure to register and file disclosure statements brought against political action committees by the Federal Election Commission were resolved through conciliation agreements. The Federal Election Commission found "Reason to Believe" that an allegation was true 2.38% of the time. Other dispositions that the FEC reached include: "Probable Cause to Believe" that the allegation was true, litigation initiated (1.79%); "Probable Cause to Believe" that the allegation was true, but no further action was taken (.60%); and, the FEC took no action on one allegation (.60%).

A total of 78.57% of allegations relating to the failure of a candidate, national party, or other political committee to register and file disclosure statements or statements of organization, were resolved through conciliation agreements between the Federal Election Commission and the respondent committee. The Federal Election Commission found "Reason to Believe" that another 7.14% of allegations were true. And, the Federal Election Commission found "Probable Cause" to believe that an allegation was true and pursued litigation in 11.43% of these allegations. The FEC also found "Probable

Cause to Believe" that 2.86% of the allegations were true, but where no further action was taken.

A total of 90% of all allegations for the failure of a corporation, organization, *et al.* to file disclosure statements or statements of organization were resolved through conciliation agreements between the FEC and the respondents. The remaining one allegation (10%) was closed after the FEC found "Reason to Believe" that the allegation was true.

A total of 17.26% of Federal Election Commission internally generated allegations related to contribution limit violations or excessive contributions. The plurality of these allegations (43.68%) were filed against individuals. The Federal Election Commission reached conciliation agreements with respondents in 36.84% of the cases. In another 36.84% of these allegations, the Federal Election Commission found "Reason to Believe." The FEC found "Probable Cause to Believe" that an allegation was true and initiated litigation in 18.42% of these allegations. Another 2.63% each resulted in the FEC taking no action on the allegations, the FEC finding "No Reason to Believe" that the allegations were true, or the resolution being unclear.

Another 39.08% of these internally generated contribution limitation violations or excessive contribution allegations were made against candidate, national party, or other political committees. Allegations of contribution limitation violations or excessive contributions were alleged against political action committees 14.94% of the time, and corporations, national party, or other political committees 2.30% of the time.

A majority (52.94%) of these contribution limit violations or excessive contribution allegations alleged

against candidate, national party, or other political committees, resulted in conciliation agreements between the respondent committee and the Federal Election Commission. The Federal Election Commission found "Reason to Believe" that an allegation was true in 26.47% of the allegations. In only 5.88% of the instances did the Federal Election Commission find probable cause to believe that an allegation was true and litigate the case. The FEC found "No Reason to Believe" that allegations were true 8.82% of the time. Lastly, the FEC found "Probable Cause to Believe" that one allegation was true, but where no further action was taken (2.94%), while taking no action on another allegation (2.94%)

Internally generated contribution limit violations or excessive contributions alleged against corporations, organizations, *et al.* resulted equally in conciliation agreements and findings of "Reason to Believe" that the allegations were true.

Allegations relating to failure to file 48-hour reports accounted for 15.48% of all internally generated allegations. The Federal Election Commission brought all of its allegations of 48-hour reports violations against candidate, national party, or other political committees. A total of 91.03% of these allegations were settled through conciliation agreements between the respondent committee and the FEC. In the remaining 8.97% of these allegations the Federal Election Commission found "Reason to Believe."

Of the 4.76% of all internally generated allegations related to corporate contributions or corporate expenditures, 45.83% were brought against corporations, organizations, *et al.* Among these allegations, the Federal Election Commission found "Reason to Believe" that the allegations were true 45.45% of the time. Another 36.36% of the time, these

allegations were settled through conciliation agreements between the respondent and the Federal Election Commission. An additional 9.09% of allegations each resulted in the Federal Election Commission finding "No Reason to Believe" that the allegations were true or "No Probable Cause" that the allegations were true.

Another 41.67% of internally generated corporate contribution or corporate expenditure related allegations were lodged against political action committees. Half of these allegations were resolved through conciliation agreements between the Federal Election Commission and the respondent political action committees. And, the Federal Election Commission found "Reason to Believe" in another 40% of these allegations. In only 10% of allegations did the Federal Election Commission find "No Probable Cause."

Internally generated allegations relating to corporate contribution or corporate expenditures, and filed against candidate, national party, or other political committees, accounted for 12.50% of all internally generated corporate contribution related allegations. One allegation each (33.33%) resulted in conciliation agreements between the respondents and the FEC, an FEC finding of "Reason to Believe" that the allegation was true, and a finding by the FEC of "No Probable Cause" to believe that the allegation was true.

Other types of FEC initiated allegations were: other contribution violations or prohibited contributions (2.98%), exceeding the maximum \$25,000 annual contribution limit (2.18%), the "other assorted allegations" category (1.59%), allegations relating to independent expenditures or express advocacy (1.39%), and the use/transfer of non-federal funds/assets for federal campaign purposes (1.19%).

**OUTSIDE INDIVIDUAL, COMMITTEE, OR ORGANIZATION:**

A second manner in which allegations arise is through the filing of formal complaints with the Federal Election Commission by individuals, committees, and organizations, outside of the Federal Election Commission. The requirements for filing a formal complaint with the Federal Election Commission were previously discussed in the explanation of the enforcement compliance process.

The most common types of allegations brought by individuals, committees, and organizations, outside of the Federal Election Commission are detailed in Table IX.

Table IX: Most Common Allegations Brought by Individuals, Committees, and Organizations Outside the FEC By Percentage

The "Other Assorted Allegations" Category	31.38%
Corporate Contributions or Expenditures	16.61%
Disclaimer Related Allegations	11.41%
Contribution Limitation Violations or Excessive Contributions	6.54%

Table X indicates the average length of time in months that the FEC took to resolve these allegations brought by individual, committees, and organizations, outside the Federal Election Commission.

Table X: Average Number of Months the FEC took to Resolve the Most Common Allegations Brought by Individuals, Committees, and Organizations Outside the FEC

The "Other Assorted Allegations" Category	17.55 Months
Corporate Contributions or Expenditures	16.16 Months
Disclaimer Related Allegations	9.96 Months
Contribution Limitation Violations or Excessive Contributions	9.81 Months

The most common allegations formally filed by individuals, committees, and organizations outside the Federal Election Commission alleged allegations contained in the "other assorted allegations category." This category

constitutes a grouping of allegations that were assorted by nature, such that they could not be adequately classified under the other coding classifications. A breakdown of the types of allegations contained in this category is contained in the appendix to this dissertation.

Among these allegations, 49.73% were filed against corporations, organizations, *et al.* Of these allegations, the FEC found "No Reason to Believe" that nearly half of the allegations were true (48.39%). Another 21.51% of these allegations saw the FEC take no action. A "Reason to Believe" finding by the Federal Election Commission was reached 24.73% of the time. Further, 4.3% of these allegations were resolved through conciliation agreements between the individuals and the Federal Election Commission. Lastly, one allegation resulted in an FEC finding of "Probable Cause to Believe" where litigation was initiated (1.08%).

A total of 24.06% of the "other assorted allegation" category allegations initiated by individuals, committees, and organizations outside the Federal Election Commission were brought against candidate, national party, or other political committees. A majority of these allegations (51.11%) resulted in FEC findings of "No Reason to Believe" that the allegations were true. Another 40% of allegations saw the FEC take no action. The FEC found "Reason to Believe" that the allegations were true only 6.67% of the time. And, one allegation (2.22%) was settled through a conciliation agreement between the FEC and the respondent committee.

Allegations falling into the "other assorted allegation" category were brought against individuals by individuals, committees, and organizations outside the Federal Election

Commission 23.53% of the time. A total of 45.45% of these allegations were closed after the FEC found "No Reason to Believe" that the allegations were true. The FEC took no action on another 43.18% of these allegations. Slightly over nine percent (9.09%) resulted in FEC findings of "Reason to Believe" that the allegations were true. Only one allegation (2.27%) was settled through a conciliation agreement.

The Federal Election Commission took no action on any of the allegations (1.07%) brought against political action committees by individuals, committees, and organizations, outside the FEC for allegations falling into the "other assorted allegations" category. The remaining 1.6% of this type of allegation brought by individuals, committees, and organizations, outside the FEC were brought against respondents who were unable to be classified.

Allegations of corporate contribution or corporate expenditure violations constituted 16.61% of all allegations filed with the Federal Election Commission by individuals, committees, and organizations outside the Federal Election Commission. In total, 36.36% of these allegations of corporate contribution or corporate expenditure violations were filed against corporations, organizations, *et al.* The Federal Election Commission, however, found "No Reason to Believe" that a violation had occurred in 55.56% of these allegations. In only 13.89% of these allegations did the Federal Election Commission reach a finding of "Reason to Believe." The Federal Election Commission took no action in 22.22% of these allegations. Additionally, the agency and the respondents settled one allegation through a conciliation agreement (2.78%). Lastly, the FEC found "Probable Cause to Believe" that an allegation (2.78%) was true and took no

further action, and declined to open a Matter Under Review for another allegation (2.78%).

Individuals, committees, or organizations, outside the Federal Election Commission filed allegations relating to corporate contributions or corporate expenditures against individuals just over one-third of the time (34.34%). In 35.29% of allegations, the Federal Election Commission found "No Reason to Believe" that the allegation had occurred. In another 47.06% of the allegations, the FEC took no action. The Federal Election Commission found "Reason to Believe" that the violation had occurred in only 5.88% of the allegations. The FEC also reached conciliation agreements or declined to open a Matter Under Review in each of an additional 5.88% of the allegations.

Candidate, national party, and other political committees had allegations related to corporate contribution or corporate expenditures filed against them by individuals, committees, or organizations outside the Federal Election Commission 27.27% of the time. The Federal Election Commission found "No Reason to Believe" that allegations were true in 29.63% of allegations. In just 14.81% of these allegations, the Federal Election Commission found "Reason to Believe." The largest disposition involved with this type of allegation, however, found the FEC taking no action (40.74%) on the allegations. Conciliation agreements were reached between the Commission and the respondent committees in 7.41% of these allegations. Lastly, the FEC declined to open Matters Under Review in another 7.41% of the allegations.

Corporate contribution or corporate expenditure related allegations brought by individuals, committees, or organizations outside of the Federal Election Commission, and filed against political action committees, constituted 2.02%

(two allegations) of this class of allegation. The FEC took no action on one of the allegations (50%), while finding "Probable Cause to Believe" that the other allegation (50%) was true, but where the agency took no further action.

Disclaimer related allegations constituted 11.41% of all allegations individuals, committees, and organizations, outside the Federal Election Commission filed with the Federal Election Commission. A total of 48.53% of disclaimer related allegations filed by individuals, committees, and organizations outside the Federal Election Commission, were filed against candidate, national, or other political committees. The FEC found "No Reason to Believe" in the largest percentage of these allegations (33.33%). In another 27.27%, the Federal Election Commission took no action. The Federal Election Commission found "Reason to Believe" that 15.15% of the allegations were true. The FEC also reached conciliation agreements with respondents in 18.18% of allegations. Lastly, the FEC found "Probable Cause to Believe," but took no further action, and found "No Probable Cause" to believe that an allegation was true in one allegation each (3.03%).

Individuals were named by other individuals, committees, and organizations, outside the Federal Election Commission, in 38.24% of all disclaimer related allegations that this class of complainant filed. The Federal Election Commission found "No Reason to Believe" or "Failed to Find Reason to Believe" in 46.15% of these allegations. The Federal Election Commission took no action on 23.08% of these allegations. And, in only another 23.08% of the allegations did the Federal Election Commission find "Reason to Believe." The Federal Election Commission and respondents reached conciliation agreements in 7.69% of allegations.

Disclaimer related allegations filed against corporations, organizations, *et al.* constituted 8.82% of all disclaimer related allegations brought by individuals, committees, and organizations, outside the Federal Election Commission. The Federal Election Commission found "No Reason to Believe" or "Failed to Find Reason to Believe" in half of these allegations (50%). The Federal Election Commission found "Reason to Believe," found "No Probable Cause," and took no action in another 16.67% each of these allegations.

Allegations by Individuals, committees, and organizations outside the Federal Election Commission against political action committees for disclaimer related allegations constituted just 2.94% (two allegations) of all disclaimer related allegations that this class of complainant filed. The Federal Election Commission found "No Reason to Believe" or "Failed to Find Reason to Believe" for one of these allegations, while finding "Reason to Believe" that the other allegation was true.

Contribution limitation violations or allegations related to excessive contributions constituted 6.54% of all of the allegations that were brought by individuals, committees, and organizations outside the Federal Election Commission. A total of 43.59% of these allegations were brought against individuals. The FEC took no action on 47.06% of these allegations. The FEC found "No Reason to Believe" that another 35.29% of these allegations were true. In only 5.88% each of the allegations did the FEC find "Reason to Believe" that the allegations were true or reach a conciliation agreement with the individual respondents.

Allegations of contribution limitation violations or allegations related to excessive contributions were brought against candidate, national party, or other political

committees, by individuals, committees, and organizations outside the FEC, a total of 38.46% of the time. A majority of these allegations (53.33%) found the FEC taking no action. The FEC found "No Reason to Believe" that another 26.67% of these allegations were true. The FEC found "Reason to Believe" that only one of the allegations (6.67%) was true. Lastly, two allegations (13.33%) were settled through conciliation agreements between the FEC and the respondent committee.

A total of 12.82% of the contribution limitation violations or excessive contribution related allegations brought by individuals, committees, or organizations outside the Federal Election Commission were brought against corporations, organizations, *et. al.* The vast majority of these allegations (80%) saw the FEC take no action. The remaining 20% were settled through conciliation agreements between the respondents and the FEC.

A total of two allegations (5.13%) of contribution limitation violations or excessive contributions were brought by individuals, committees, or organizations outside the FEC against political action committees. One allegation (50%) resulted in the FEC taking no action, while the other allegation was closed after the FEC found "Probable Cause to Believe" that the allegation was true, but took no further action.

Some of the other types of allegations initiated by individuals, committees, and organizations outside the Federal Election Commission were: contributions in the names of others (2.85%), general disclosure related allegations (5.37%), failure to register and file disclosure statements or statements of candidacy (4.03%), advertising and mailing related allegations (3.69%), allegations related to

independent expenditures or express advocacy (3.02%), and influence related allegations (1.85%).

**REFERRALS BY OTHER GOVERNMENTAL AGENCIES:**

A third manner in which matters come before the Federal Election Commission is through the referral of matters to the Federal Election Commission from other governmental agencies. The most common types of allegations that were referred to the Federal Election Commission by other governmental agencies were contributions in the names of others and the "other assorted allegations" category. A breakdown of these allegations by percentage can be found in Table XI.

Table XI: Most Common Allegations Referred to the FEC By Percentage

Contributions in the Names of Others	64.29%
The "Other Assorted Allegations" Category	16.67%

Table XII indicates the average length of time in months that it took the FEC to resolve these same most common allegations that were referred to it by other governmental agencies.

Table XII: Average Number of Months the FEC took to Resolve the Most Common Allegations Referred to the Agency

Contributions in the Names of Others	24.29 Months
The "Other Assorted Allegations" Category	15.05 Months

A majority of all allegations (64.29) referred to the Federal Election Commission relate to contributions in the names of others. A total of 74.07% of these allegations of contributions in the names of others were brought against individuals. The Federal Election Commission found "Reason to Believe" that all of these allegations were true.

The second largest group of allegations of contributions in the names of others that were referred to the Federal Election Commission by other governmental agencies (22.22%), were against corporations, organizations, *et al.* The Federal Election Commission found "Reason to Believe" that all of these allegations were true.

The second most common form of allegation that was referred to the Federal Election Commission by other governmental agencies (16.67%) were those allegations that fell into the "other assorted allegations" category. A total of 42.86% of these allegations each were brought against political action committees and corporations, organizations, *et al.* The remaining 14.29% of allegations were brought against individuals. None of this type of allegation was brought against candidate, national party, or other political committees by this type of respondent.

The Federal Election Commission found "No Probable Cause" to believe that two-thirds of the allegations against political action committees were true. The remaining one-third of allegations against political action committees was settled through conciliation agreements. The Federal Election Commission found "No Probable Cause" to believe that an allegation was true, "Reason to Believe" that an allegation was true, and reached conciliation agreements with respondents, each one-third of the time against corporations, organizations, *et al.* Lastly, the lone allegation against individuals that was referred to the Federal Election Commission by other governmental agencies for allegations falling into the "other assorted allegations" category (14.29%) saw the Federal Election Commission find "Reason to Believe" that the allegation was true.

Some of the other types of allegations that were referred to the Federal Election Commission by other governmental agencies were: other contribution violations or prohibited contributions (9.52%), contributions by foreign nationals (4.76%), allegations related to disclaimers (2.38%), and advertising and mailing related allegations (2.38%). It is important to note, however, that while the percentages that each of the above types of allegations referred to the FEC may seem significant, the absolute number of allegations involved total four or less.

**ALLEGATIONS BROUGHT VIA *SUA SPONTE*:**

Individuals can also bring possible violations in which they may be involved to the attention of the Federal Election Commission. This type of complaint is brought *sua sponte*. A large majority (87.5%) of these allegations related to corporate contributions or corporate expenditures. The average length of time the FEC took to resolve these allegations was 43.33 months. Among this type of allegations, fully 85.71% were alleged against candidate, national party, or other political committees. All of the *sua sponte* brought allegations relating to corporate contributions or corporate expenditures resulted in Federal Election Commission findings of "Reason to Believe." Meanwhile, a total of 14.29% of these allegations were brought against corporations, organizations, *et al.* The Federal Election Commission found "Probable Cause to Believe" that one-half of these allegations were true, such that it chose to pursue litigation. The remaining one-half of these allegations saw the FEC take no action.

The only other types of allegations that were brought to the Federal Election Commission's attention via *sua sponte*

were contribution limitation violations or excessive contributions (6.25%, average of 69.17 months to resolve), and allegations related to disclaimers (also, 6.25%, average of 4.13 months to resolve). Each of these types of allegations had only a single allegation that was alleged. The contribution limit violation or excessive contribution related allegation brought to the Federal Election Commission via *sua sponte* was brought against candidate, national, or other political committees. This allegation was settled through a conciliation agreement. Whereas, the disclaimer related allegation, also brought against candidate, national party, or other political committees, resulted in the Federal Election Commission finding "Reason to Believe."

No other types of allegations appear to have been brought to the attention of the Federal Election Commission via *sua sponte*, during this time period.

**ALLEGATIONS AGAINST POLITICAL ACTION COMMITTEES:**

Allegations against political action committees in the pre-enforcement prioritization profile database generally relate to the four types of allegations detailed in Table XIII.

Table XIII: Top Four Allegations Brought Against PACs By Percentage

Failure to Register and File Disclosure Statements or Statements of Organization	75.56%
Contribution Limit Violations or Excessive Contributions	6.67%
Corporate Contributions or Expenditures	5.33%
The "Other Assorted Allegations" Category	3.11%

Table XIV indicates the average length of time that the FEC took to resolve each of the above four top allegations categories brought against political action committees.

Table XIV: Average Number of Months the FEC Took to Resolve the Four Top Allegations Brought Against PACs

Failure to Register and File Disclosure Statements or Statements of Organization	4.83 Months
Contribution Limit Violations or Excessive Contributions	9.37 Months
Corporate Contributions or Expenditures	12.76 Months
The "Other Assorted Allegations" Category	7.20 Months

A majority of allegations (94.12%) against political action committees for failure to register and file disclosure statements resulted in conciliation agreements between the respondent committee and the Federal Election Commission. Another 2.94% of these allegations were closed after the Federal Election Commission found "Reason to Believe" that an allegation was true. Other dispositions that the FEC reached included: "Probable Cause to Believe," litigation initiated (1.76%); "Probable Cause to Believe," but the agency chose not to pursue litigation (.59%); and took no action (.59%).

A majority of allegations (53.33%) of contribution limit violations or excessive contributions were settled through conciliation agreements between the respondent committee and the Federal Election Commission. The FEC found "Reason to Believe" that a third of the allegations (33.33%) were true. Lastly, the FEC took no action on one allegation (6.67%) and found "No Reason to Believe" that another allegation (6.67%) was true.

Allegations against political action committees for corporate contributions or corporate expenditures usually resulted in either a conciliation agreement settlement between the respondent political action committee and the Federal Election Commission (41.67%) or a finding of "Reason to Believe" that an allegation was true (33.33%). The Federal Election Commission found "No Probable Cause" to

believe that one allegation (8.33%) was true, while finding "Probable Cause to Believe" that another allegation (8.33%) was true. Lastly, the FEC took no action on one allegation (8.33%).

The "other assorted allegation" category accounted for 3.49% of all allegations brought against political action committees. The Federal Election Commission took no action on 28.57% of these allegations. The Federal Election Commission found "Reason to Believe" that an allegation was true, and "No Probable Cause" to believe that an allegation was true, in each of another 28.57% of these allegations. Only 14.29% of these allegations were settled through conciliation agreements.

Some of the other types of allegations that were brought against political action committees were: allegations relating to independent expenditures or express advocacy (2.22%), allegations relating to the use or transfer of non-federal funds or assets for federal campaign purposes (1.33%), and allegations related to disclaimers (1.33%).

**ALLEGATIONS AGAINST INDIVIDUALS:**

Allegations of campaign finance law violations against individuals fall into four general categories: contribution limit violations or excessive contributions; contributions in the names of others; the "other assorted allegations" category; and corporate contributions or corporate expenditures. A breakdown of the percentages for the top four allegations lodged against individuals can be found in Table XV on the next page.

Table XV: Top Four Allegations Brought Against Individuals By Percentage

Contribution Limitation Violations or	19.43%
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Excessive Contributions	
The "Other Assorted Allegations" Category	15.90%
Contributions in the Name of Others	13.43%
Corporate Contributions or Expenditures	12.01%

Table XVI indicates the average length of time in months that the Federal Election Commission took to resolve these same four most common allegations categories.

Table XVI: Average Number of Months the FEC Took to Resolve the Top Four Allegations Brought Against Individuals

Contribution Limitation Violations or Excessive Contributions	15.83 Months
The "Other Assorted Allegations" Category	12.24 Months
Contributions in the Name of Others	23.04 Months
Corporate Contributions or Expenditures	17.22 Months

In considering the top four allegation categories brought against individuals, the Federal Election Commission found "Reason to Believe" that 30.91% of the allegations of contribution limit violations or excessive contributions that were filed against individuals were valid. The Federal Election Commission took no action on 16.36% of these allegations against individuals. A total of 27.27% of the allegations related to contribution limit violations or excessive contributions by individuals were settled through conciliation agreements between the Federal Election Commission and the respondents. The FEC also found "Probable Cause to Believe" and authorized litigation in 12.73% of the allegations. And, the Federal Election Commission found "No Reason to Believe" or "Failed to Find Reason to Believe" that allegations were true in 10.91% of these allegations. Lastly, the disposition was unclear for one allegation (1.82%).

The second most common allegation filed against individuals involved those types of allegations that fall

into the "other assorted allegations" category. The Federal Election Commission found "No Reason to Believe" or "Failed to Find Reason to Believe" that allegations falling into the "other assorted allegations" category against individuals were true in 44.44% of the time. The Federal Election Commission took no action on another 42.22% of the allegations falling into this category. The Federal Election Commission also found "Reason to Believe" that an allegation was true in 11.11% of these "other assorted allegations" that were filed against individuals. The remaining one allegation (2.22%) was resolved through a conciliation agreement between the individual involved and the FEC.

The third most common type of allegation filed against individuals related to contributions in the names of others. The Federal Election Commission found "Reason to Believe" that a majority of the allegations (55.26%) of contributions in the names of others by individuals were true. Conciliation agreements accounted for the dispositions of another 31.58% of the allegations. "No Reason to Believe" or "Failed to Find Reason to Believe" was found by the Federal Election Commission in 7.89% of these allegations. The FEC also found "Probable Cause to Believe," litigation initiated, and "No Probable Cause" to believe that an allegation was true, for one allegation each (2.63%).

The fourth most common type of allegation brought against individuals was corporate contributions or corporate expenditures. The Federal Election Commission found "No Reason to Believe" or "Failed to Find Reason to Believe" in 35.29% of allegations. The Federal Election Commission took no action in another 47.06% of allegations. The Federal Election Commission found "Reason to Believe" that an allegation was true 5.88% of the time. Conciliation

agreements between the Federal Election Commission and respondents accounted for another 5.88%, as did the Federal Election Commission declining to open a matter under review containing that allegation.

Some of the other types of allegations that were brought against individuals include: allegations related to disclaimers (9.19%), exceeding the maximum \$25,000 annual contribution limit (4.95%), failure to register and file disclosure statements or statements of candidacy/organization (3.18%), contributions by foreign nationals (3.18%), other contribution violations or prohibited contributions (2.12%), influence related allegations (2.12%), and allegations related to independent expenditures or express advocacy (1.5%).

**ALLEGATIONS AGAINST CORPORATIONS, ORGANIZATIONS, ET AL.:**

The most common types of allegations brought against corporations, organizations, churches, colleges, foundations, Indian tribes, *et al.* are detailed in Table XVII.

Table XVII: Top Five Allegations Brought Against Corporations, Organizations, *et al.*, by Percentage

The "Other Assorted Allegations" Category	48.56%
Corporate Contributions or Expenditures	23.56%
Failure to Register and File Disclosure Statements or Statements of Organization	5.29%
Contributions in the Names of Others	3.85%
Other Contribution Violations or Prohibitions	3.85%

Table XVIII indicates the average length of time in months that the FEC took to resolve these top five allegations brought against corporations, organizations, *et al.*

Table XVIII: Average Number of Months the FEC Took to Resolve the Top Five Allegations Brought Against Corporations, Organizations, *et al.*

The "Other Assorted Allegations" Category	23.17 Months
Corporate Contributions or Expenditures	13.74 Months
Failure to Register and File Disclosure Statements or Statements of Organization	3.67 Months
Contributions in the Names of Others	20.05 Months
Other Contribution Violations or Prohibitions	11.27 Months

The "other assorted allegations" category constituted the largest portion of allegations lodged against corporations, organizations, *et al.* The Federal Election Commission found "No Reason to Believe" or "Failed to Find Reason to Believe" in 44.55% of these allegations. It found "Reason to Believe" in another 25.74% of these allegations. And, slightly fewer than five percent (4.95%) of these allegations were settled through conciliation agreements.

And, 22.77% of these allegations saw the Federal Election Commission take no action. The FEC also found the following dispositions: "Probable Cause to Believe," litigation initiated for one allegation (.99%), and "No Probable Cause to Believe" that one allegation was true (.99%).

Allegations of corporate contributions or corporate expenditures by corporations, organizations, *et al.* constituted the second most common type of allegation brought against this class of respondent. A plurality of these allegations (42.86%) were closed with the Federal Election Commission finding "No Reason to Believe." The Federal Election Commission took no action on another 18.37% of allegations. A total of 20.41% of allegations were closed after the Federal Election Commission found "Reason to Believe." Additionally, slightly over ten percent (10.20%) of allegations were settled through conciliation agreements between respondents and the Federal Election Commission. The FEC also found the following dispositions: "No Probable Cause to Believe" that the allegations were true (2.04%); "Probable Cause to Believe," that the allegation was true, but litigation was not initiated (2.04%); "Probable Cause to Believe," litigation initiated (2.04%); and, declined to open a Matter Under Review containing the allegation (2.04%).

A majority of all allegations related to the failure to register and file disclosure statements or the failure to file statements of organization (81.82%) were settled through conciliation agreements between the respondents and the Federal Election Commission. The Federal Election Commission found that there was "Reason to Believe" that an allegation was true in the remaining 18.18% of allegations.

Allegations of contributions in the names of others were generally closed after the FEC found "Reason to Believe"

(75%) that the allegations were true. The FEC found "No Reason to Believe" that one allegation was true (12.5%) and took no action on the remaining allegation (12.5%).

Allegations that respondents made other prohibited contributions also were generally closed after the FEC found "Reason to Believe" (75%) that the allegations were true. The remaining two allegations were divided evenly with one resulting in a conciliation agreement between the FEC and the respondents, and the other resulting in a finding of "No Reason to Believe" that the allegation was true.

Some of the other types of allegations that were brought against corporations, organizations, *et al.* were: contribution limitation violations or excessive contributions (3.37%), advertising and mailing related allegations (3.37%), allegations related to disclaimers (2.88%), and improper solicitations/corporate facilitation (2.88%).

**ALLEGATIONS AGAINST CANDIDATE, NATIONAL PARTY, OR OTHER POLITICAL COMMITTEES:**

The principal types of allegations that were filed against candidate, national party, or other political committees are outlined in Table XIX below.

Table XIX: Principal Allegations Filed Against Candidate, National Party, or Other Political Committees by Percentage

Failure to Register and File Disclosure Statements or Statements of Candidacy	19.08%
Failure to File 48-Hour Reports	18.39%
Contribution Limit Violations or Excessive Contributions	11.49%
The "Other Assorted Allegations" Category	10.57%
Corporate Contribution or Expenditures	9.66%

Table XX below indicates the average number of months that the FEC took to resolve the principal types of allegations that were filed against candidate, national party, or other political committees.

Table XX: Average Number of Months the FEC Took to Resolve the Principal Allegations Filed Against Candidate, National Party, or Other Political Committees

Failure to Register and File Disclosure Statements or Statements of Candidacy	9.87 Months
Failure to File 48-Hour Reports	4.93 Months
Contribution Limit Violations or Excessive Contributions	13.59 Months
The "Other Assorted Allegations" Category	9.76 Months
Corporate Contribution or Expenditures	25.10 Months

Within the principal allegation categories filed against candidate, national party, or other political committees, the Federal Election Commission reached conciliation agreements with 67.47% of respondent committees on allegations relating to failure to register and file disclosure statements or statements of candidacy. The Federal Election Commission found "Reason to Believe" that 10.84% of these allegations were true. Another 9.64% of these allegations resulted in FEC findings of "Probable Cause Reported, Litigation Initiated." In only 4.82% each did the Federal Election Commission either reach a finding of "No Reason to Believe" that an allegation was true or took no action. Lastly, the FEC found "Probable Cause to Believe" that two allegations were true (2.41%), but took no further action.

Allegations against candidate, national party, or other political committees for a failure to file 48-Hour Reports were most often resolved through conciliation agreements. A total of 91.25% of these allegations were settled through conciliation agreements between the respondent committee and the Federal Election Commission. The Federal Election

Commission found "Reason to Believe" that allegations were true in the remaining 8.75% of this class of allegation.

Allegations relating to contribution limit violations or excessive contributions bought against candidate, national party, or other political committees were most often settled through conciliation agreements (42%). The Federal Election Commission found "Reason to Believe" that another 20% of allegations were true. The Federal Election Commission found "No Reason to Believe" that an allegation was true 14% of the time. The FEC also took no action on 18% of these allegations. Lastly, the FEC found "Probable Cause to Believe" that two allegations were true and authorized litigation (4%), and found "Probable Cause to Believe" that one allegation was true, but did not pursue litigation (2%).

Allegations belonging to the "other assorted allegations" category that were lodged against candidate, national party, or other political committees generally resulted in the FEC finding "No Reason to Believe" (50%) that the allegations were true. Another 39.13% of the allegations saw the FEC take no action. The FEC did, however, find "Reason to Believe" that 6.52% of the allegations were true. The remaining 4.35% of the allegations were settled through conciliation agreements between the respondent committee and the FEC.

The last major type of allegations made against candidate, national party, or other political committees during the pre-enforcement prioritization system time period covered by this study is corporate contributions or corporate expenditures. The Federal Election Commission found "Reason to Believe" that 40.48% of these allegations were true. Conciliation agreements were reached between the Federal Election Commission and respondents in another 7.14% of

allegations. The Federal Election Commission found "No Reason to Believe" that 19.05% of allegations were true. And, the Federal Election Commission took no action on another 26.19% of these allegations. The FEC also reached the following dispositions: it declined to open Matters Under Review containing two of the allegations (4.76%), and it found "No Probable Cause to Believe" that another allegation was true (2.38%).

**Section Three:**

**The Single Allegation Post-Enforcement Prioritization System**

**Enforcement Profile for the FEC**

**December 9, 1993 through December 31, 1998**

**By Respondent:**

The data indicate that the largest number of respondents involved in compliance cases before the Federal Election Commission are individuals. The breakdown of respondents for all allegations examined during the post-enforcement profile time period are detailed in Table XXI below.

Table XXI: Percentage of Allegations Against Respondent

Individuals	37.14%
Candidate, National Party, or Other Political Committees	34.45%
Corporations, Organizations, <i>et al.</i>	21.83%
Political Action Committees	5.17%
Other/Unclear	1.41%

The data contained in Table XII on the next page indicate the average length of time in months that it took the Federal Election Commission to resolve these allegations by respondent type.

Table XXII: Average Number of Months the FEC Took to Resolve Allegations Against Respondent

Individuals	16.10 Months
Candidate, National Party, or Other Political Committees	17.33 Months
Corporations, Organizations, <i>et al.</i>	25.70 Months
Political Action Committees	14.36 Months

**By Complainant:**

The data indicate that the vast majority of allegations examined by the Federal Election Commission were initiated by individuals outside the Federal Election Commission. A full breakdown of all allegations by complainant during the post-enforcement profile time period are detailed in Table XXIII below.

Table XXIII: Percentage of Allegations Brought by Complainant

Individuals	84.35%
Federal Election Commission	13.36%
Referred by Other Governmental Agencies	1.41%
<i>Sua Sponte</i>	0.87%

Table XXIV indicates the average number of months that the FEC took to resolve these allegations by complainant type.

Table XXIV: Average Number of Months the FEC took to Resolve Allegations Brought by Complainant

Individuals	19.73 Months
Federal Election Commission	11.53 Months
Referred by Other Governmental Agencies	13.89 Months
<i>Sua Sponte</i>	10.30 Months

**By Disposition:**

The Federal Election Commission took no action on 66.02% of the allegations contained in the post-enforcement prioritization database. It found "Reason to Believe" on 11.28% of all allegations included in the post-enforcement

prioritization database. An additional 12.76% of these allegations resulted in conciliation agreements between the respondents and the FEC. The FEC found "No Reason to Believe" or "Failed to Find Reason to Believe" in 7.99% of these allegations. The FEC found "Reason to Believe, Knowing and Willful" in .74% of the allegations. "Probable Cause to Believe, but took no further action" was found only .13% of the time, while a findings of "Probable Cause to Believe" that the allegations were true and litigation were reached in another .60% of allegations. Lastly, the disposition was unclear in .47% of the allegations.

**By Allegation:**

Data detailing the breakdown of allegations during the post-enforcement time period are contained in Table XXV.

Table XXV: Allegations by Percentage

Corporate Contributions or Expenditures	16.52%
Contributions by Foreign Nationals	16.45%
The "Other Assorted Allegations" Category	10.28%
Failure to Register and File Disclosure Statements or Statements of Organization	10.01%
Contribution Limitation or Excessive Contribution Violations	9.13%
General Disclosure Related Allegations	8.53%
Disclaimer Related Allegations	7.52%
Other Contribution Related Allegations	3.69%
Failure to File 48-Hour Reports	3.63%
Contributions in the Names of Others	2.96%
Influence Related Allegations	2.48%
Improper Use or Transfer of Non-Federal Funds or Assets	2.28%
Improper Use or Handling of Campaign Funds	1.41%
Exceeding \$25,000 Annual Contribution Limit	1.14%
Improper Solicitation or Corporate Solicitation	1.01%
Advertising and Mailing Related Allegations	0.94%
Allegations Related to Coordinated Expenditures	0.54%
Other expenditure, billing, or allocation related allegations	0.47%
Allegations Related to Independent Expenditures	0.34%
Committee Related Allegations	0.27%
Crimes, theft, fraud, and general Misrepresentation	0.20%
Improper Allocation of State and Federal Expenses	0.20%

Table XXVI below indicates the average length of time in months that the FEC took to resolve the allegations by allegation type.

Table XXVI: Average Number of Months the FEC took to Resolve Allegations by Allegations

Corporate Contributions or Expenditures	14.45 Months
Contributions by Foreign Nationals	37.80 Months
The "Other Assorted Allegations" Category	14.34 Months
Failure to Register and File Disclosure Statements or Statements of Organization	8.36 Months
Contribution Limitation or Excessive Contribution Violations	22.02 Months
General Disclosure Related Allegations	20.17 Months
Disclaimer Related Allegations	15.12 Months
Other Contribution Related Allegations	9.64 Months
Failure to File 48-Hour Reports	12.23 Months
Contributions in the Names of Others	18.49 Months
Influence Related Allegations	11.58 Months
Improper Use or Transfer of Non-Federal Funds or Assets	13.86 Months
Improper Use or Handling of Campaign Funds	9.31 Months
Exceeding \$25,000 Annual Contribution Limit	9.88 Months
Improper Solicitation or Corporate Solicitation	12.90 Months
Advertising and Mailing Related Allegations	9.40 Months
Allegations Related to Coordinated Expenditures	21.43 Months
Other expenditure, billing, or allocation related allegations	8.50 Months
Allegations Related to Independent Expenditures	9.65 Months
Committee Related Allegations	9.53 Months
Crimes, theft, fraud, and general Misrepresentation	17.70 Months
Improper Allocation of State and Federal Expenses	11.59 Months

Overall, the data indicate that contribution related violations constitute nearly a majority of all violations at 49.9%. Included in this total of contribution related violations are: corporate contributions/expenditures; contribution limitation violations/excessive contributions; contributions in the names of others; exceeding the \$25,000 annual contribution limitation; contributions by foreign

nationals; contributions by minors; and other contribution related violations. The data further indicate that 22.17% of all allegations relate to campaign finance filings and disclosure. This would include general disclosure related problems, problems related to registering campaign committees, filing 24-hour reports, and the filing of 48-hour reports. When taken together, this means that more than 72.07% of all allegations contained in single allegation compliance cases under review by the Federal Election Commission related in one manner or another to contributions and disclosure.

**FEC INITIATED ALLEGATIONS:**

The first type of complainant is the Federal Election Commission, itself. Matters in which the Federal Election Commission is the complainant are internally generated matters. The most common allegations included among compliance cases initiated by the Federal Election Commission were: failure to register and file disclosure statements or statements of organization, failure to file 48-hour reports contribution limit violations or excessive contributions, corporate contributions or expenditures. A breakdown of these allegations brought by the Federal Election Commission are detailed in Table XXVII below.

Table XXVII: Top Allegations Initiated by the FEC by Percentage

Failure to Register and File Disclosure Statements or Statements of Organization	35.68%
Failure to File 48-Hour Reports	24.12%
Contribution Limitation Violations or Excessive Contributions	12.56%
Corporate Contributions or Expenditures	12.56%

Table XXVIII below indicates the average number of months that it took for the FEC to resolve the top four categories of allegations it initiated.

Table XXVIII: Average Number of Months the FEC Took to Resolve the Top Allegations Initiated by the FEC

Failure to Register and File Disclosure Statements or Statements of Organization	6.43 Months
Failure to File 48-Hour Reports	12.18 Months
Contribution Limitation Violations or Excessive Contributions	14.76 Months
Corporate Contributions or Expenditures	21.51 Months

Failure to register and file disclosure statements or statements of candidacy or organization accounted for 35.68% of all allegations initiated by the FEC during the time period covered by this post enforcement profile. Over half of these allegations (50.70%) were filed against political action committees, while another 42.25% were filed against candidate, national party, or other political committees. The remaining 7.04% of this type of allegation were filed against corporations, organizations, *et al.*

The vast majority (86.11%) of allegations of failure to register and file disclosure statements or statements of organization that were filed by the Federal Election Commission against political action committees were settled through conciliation agreements. The Federal Election Commission found "Reason to Believe" that another 8.33% of these allegations were true. Lastly, one allegation each (2.78%) resulted in the FEC taking no action, and the FEC finding "Probable Cause" to believe that the allegation was true such that it initiated litigation.

As with the allegations against political action committees, the vast majority (76.67%) of allegations of failure to register and file disclosure statements or

statements of organization that the Federal Election Commission filed against candidate, national party, or other political committees, were settled through conciliation agreements. The Federal Election Commission found "Reason to Believe" that allegations were true in another 20% of allegations. The Federal Election Commission found "Probable Cause to Believe, but took no further action" in the remaining 3.33% of allegations.

Allegations of failure to register and file disclosure statements and statements of organization that the FEC brought against corporations, organizations, *et al.*, were settled through conciliation agreements 60% of the time. The Federal Election Commission found "Reason to Believe" that an allegation was true in another 20% of allegations. Lastly, the Federal Election Commission took no action on 20% of allegations.

Failure to file 48-hour reports (24.12%) was the second major type of allegation brought by the Federal Election Commission. All of these allegations were filed against candidate, national party, or other political committees. The vast majority of these allegations (89.58%) were settled through conciliation agreements between the Federal Election Commission and the respondent committees. The Federal Election Commission found "Reason to Believe" that the allegations were true in another 6.25% of the allegations. The remaining 4.16% of allegations was split evenly between the FEC finding "Probable Cause to Believe, litigation initiated," and the FEC taking no action on the allegations.

Contribution limit violations or excessive contributions accounted for 12.56% of all FEC initiated allegations. Among these allegations, 52% were lodged against candidate,

national party, or other political committees, while another 36% were each against candidate, national party, or other political committees, and 8% of these allegations were filed against political action committees. Lastly, 4% were lodged against corporations, organizations, *et al.*

A total of 30.77% of the FEC initiated allegations brought against candidate, national party, or other political committees, for contribution limitation related violations, or excessive contributions, resulted in the FEC taking no action. The FEC reached a finding of "Reason to Believe" that an allegation was true in 23.08% of the allegations. The FEC and the individuals involved in the allegations were also able to reach conciliation agreements 38.46% of the time. Lastly, the disposition for one allegation (7.69%) was unclear.

The Federal Election Commission reached conciliation agreements on two-thirds of the allegations (66.67%) of contribution limitation violations, or excessive contribution related allegations, brought against individuals. The remaining one-third of allegations were closed after the FEC found "Reason to Believe" that the allegation was true.

All of the allegations that were brought against political action committees by the FEC for contribution limitation violations or excessive contributions (100%) were settled through conciliation agreements between the FEC and the respondent political action committees. And, the one allegation that was brought against corporations, organizations, or other political committees by the FEC for this type of violation (100%) was settled through a conciliation agreement.

The next most common FEC initiated violation was corporate contributions or expenditures which also

constituted 12.56% of all FEC initiated violations. Within these corporate contribution or corporate expenditure allegations, 40% of these allegations were made against corporations, organizations, churches, *et al.* Another 36% of these corporate contribution or corporate expenditure allegations were made against individuals. Furthermore, 16% of these same allegations were made against candidate, national party, or other political committees and 8% were brought against political action committees.

A total of 80% of the FEC initiated corporate contribution or expenditure related allegations made against corporations, organizations, *et al.*, resulted in the FEC finding "No Reason to Believe." Another 10% of these allegations were resolved through conciliation agreements between the respondents and the FEC. Lastly, 10% of these allegations resulted in the FEC finding "Probable Cause to Believe" that the allegation had occurred, but with the FEC taking no further action.

Among the allegations of corporate contributions or corporate expenditures made against individuals, the FEC found "Reason to Believe" in 77.78% of the allegations. The remaining 22.22% of the allegations were closed after the FEC had reached a finding of "Probable Cause Reported, Litigation Initiated."

Among the corporate contribution or corporate expenditure related allegations made against candidate, national party, or other political committees, the FEC found "Reason to Believe" in half of these allegations (50%). Another 25% of allegations were resolved through conciliation agreements between the committees and the FEC. And, the FEC took no action in another 25% of these allegations.

Allegations of contributions in the names of others accounted for 7.42% of all allegations initiated by the Federal Election Commission. Not surprisingly, all of these allegations were brought against individuals. The Federal Election Commission found "Reason to Believe" that 64% of these allegations were true. Another 2% each resulted in a finding of "Reason to Believe, knowing and willful, but took no further action," or a conciliation agreement. The Federal Election Commission found "Probable Cause to Believe, but took no further action" in 8% of the allegations. Lastly, the Federal Election Commission found "No Probable Cause" to believe that 24% of the allegations were true.

Some of the other FEC initiated allegations were: the "other assorted allegations" category (5.53%), and other contribution violations or prohibited contributions (2.51%).

**OUTSIDE INDIVIDUAL, COMMITTEE, OR ORGANIZATION:**

The second type of complainant involves allegations being initiated by individuals, committees, or organizations other than the Federal Election Commission. This class of complainant excludes individuals who report allegations against themselves (*sua sponte*), allegations referred to the Federal Election Commission by other governmental agencies, and those allegations initiated by the FEC. Outside individuals, committees, and organizations were most likely to refer the three types of cases to the Federal Election Commission that are detailed in Table XXIX.

Table XXIX: Most Common Allegations Brought By Individuals, Committees, Or Organizations Outside the FEC By Percentage

Contributions by Foreign Nationals	19.03%
Corporation Contributions or Expenditures	17.20%
The "Other Assorted Allegation" Category	11.31%

Table XXX below indicates the average length of time in months that the FEC took to resolve these allegations brought by individuals, committees, and organizations outside the Federal Election Commission.

Table XXX: Average Number of Months the FEC Took to Resolve the Most Common Allegations Brought By Individuals, Committees, Or Organizations Outside the FEC

Contributions by Foreign Nationals	38.57 Months
Corporation Contributions or Expenditures	13.97 Months
The "Other Assorted Allegation" Category	15.00 Months

The most common type of allegation brought by individuals, committees, or organizations outside the FEC, was contributions by foreign nationals. A total of 43.10% of these allegations were brought against individuals, while another 34.73% were brought against corporations, organizations, et al., and 19.25% were brought against candidate, national party, or other political committees. Only 2.51% of foreign national contributions were brought against political action committees. Lastly, the respondent for one of these foreign national contributions was unclear (.42%).

The vast majority (84.47%) of allegations of foreign national contributions brought by individuals, committees, or organizations outside the Federal Election Commission against individuals saw the FEC take no action. The Federal Election Commission found "Reason to Believe" that allegations were true in another 7.77% of these allegations. Furthermore, the Federal Election Commission reached

conciliation agreements with another 6.80% of respondents. The Federal Election Commission found "No Reason to Believe" that an allegation was true less than one percent of the time (.97%).

Allegations of foreign national contributions brought by individuals, committees, or organizations outside the Federal Election Commission against corporations, organizations, *et al.*, resulted in findings of "Reason to Believe" by the FEC that an allegation was true 33.73% of the time. Another 25.30% of allegations were settled through conciliation agreements. The Federal Election Commission found "No Reason to Believe" that an allegation was true 22.89% of the time. The Federal Election Commission took no action in another 18.07% of these allegations.

Allegations of foreign national contributions brought by individuals, committees, or organizations outside the FEC against candidate, national party, or other political committees, generally resulted in the FEC finding "Reason to Believe" (80.43%) that the allegations were true. The Federal Election Commission took no action on another 15.22% of allegations. Lastly, the FEC reached conciliation agreements with respondents 4.35% of the time.

Lastly, allegations of foreign national contributions brought by individuals, committees, or organizations outside the FEC, and lodged against political action committees, resulted in FEC findings of "No Reason to Believe" half of the time. Another one-third of these allegations saw the FEC take no action. In only 16.67% of this type of allegation did the FEC reach conciliation agreements with the respondent political action committees.

On improper corporate contributions or expenditures, 44.44% of allegations made by individuals, committees, or

organizations outside the FEC, were made against corporations, organizations, *et al.* Individuals constituted another 28.70% of this type of allegation. A total of 26.39% of corporate contributions or corporate expenditures alleged by outside individuals, committees, or organizations, were made against candidate, national, or other political committees. Finally, the respondent for one allegation (.46%) was unclear.

Allegations of improper corporate contributions or corporate expenditures made by individuals, committees, or organizations outside the FEC, against corporations, organizations, *et al.*, saw the Federal Election Commission take no action 82.29% of the time. Another 13.54% of these allegations resulted in the Federal Election Commission finding "No Reason to Believe" that the allegations were true. The Federal Election Commission found "Reason to Believe" or entered into conciliation agreements between the FEC and respondents in each of 1.04% of the allegations. Lastly, the disposition for two allegations was unclear (2.08%).

The Federal Election Commission took no action on 90.32% of the corporate contributions or expenditure allegations brought by individuals, committees, or organizations outside the FEC against individuals. The Federal Election Commission also found "No Reason to Believe" that another 6.45% of these allegations were true. In only 1.61% of the allegations did the FEC find "Reason to Believe" or enter into conciliation agreements with the respondents.

Allegations of improper corporate contributions or expenditures made against candidate, national party, or other political committees by individuals, committees, or organizations outside the FEC, saw the FEC take no action

84.21% of the time. Further, the FEC found "No Reason to Believe" that another 10.53% of the allegations were true. The FEC found "Reason to Believe" that the allegation was true or entered into a conciliation agreement between the individual respondents and the FEC in each of 1.75% of the allegations. Lastly, the disposition for one allegation was unclear (1.75%).

Allegations falling into the "other assorted allegations" category that were initiated by the Federal Election Commission were most commonly filed against individuals. A total of 40.85% of these allegations were filed against individuals, while 33.10% were filed against corporations, organizations, *et al.* Another 19.01% of this class of allegations were brought against candidate, national party, or other political committees. Allegations against political action committees accounted for only 1.41% of the allegations. Lastly, the respondent for 5.63% of the allegations was unclear.

Among this type of allegation that was brought against individuals, nearly all (93.10%) found the Federal Election Commission taking no action. The remaining 6.90% of the allegations were closed after the FEC found "No Reason to Believe" that the allegations were true.

Similar to the allegations brought against individuals for this type of allegation, a total of 85.11% of the allegations brought against corporations, organizations, *et al.*, saw the FEC take no action. Another 6.38% of the allegations resulted in FEC findings of "Probable Cause to Believe" that the allegations were true, such that the FEC initiated litigation. The remaining allegations were split evenly between FEC findings of "Reason to Believe" that the

allegations were true (4.26%) and “No Reason to Believe” that the allegations were true (4.26%).

Allegations brought against political action committees were evenly split between the FEC finding “Probable Cause to Believe” that the allegation was true, such that litigation was initiated (50%), and the FEC taking no action (50%).

**REFERRALS BY OTHER GOVERNMENTAL AGENCIES:**

Referrals of allegations to the Federal Election Commission by other governmental agencies represents a third form of complainant. The most common allegations referred to the Federal Election Commission by other governmental agencies are detailed in Table XXXI below.

Table XXXI: Most Common Allegations Referred to the FEC by Other Governmental Agencies By Percentage

Contributions in the Name of Others	28.57%
Corporate Contributions or Expenditures	23.81%
General Disclosure Related Allegations	19.05%
Other Contribution Violations or Prohibited Contributions	19.05%

Table XXXII below indicates the average number of months that the FEC took to resolve these most common allegations.

Table XXXII: Average Number of Months the FEC took to Resolve the Most Common Allegations Referred to the Agency

Contributions in the Name of Others	2.67 Months
Corporate Contributions or Expenditures	0.00 Months
General Disclosure Related Allegations	61.57 Months
Other Contribution Violations or Prohibited Contributions	4.33 Months

The data indicate that a total of 66.67% of the contributions in the names of others that were referred to the Federal Election Commission by other governmental agencies were alleged against individuals. Another 33.33% of

the contributions in the names of others were made against corporations, organizations, *et al.*

All four of the allegations of contributions in the names of others that were brought against individuals after the allegations were referred to the FEC by other governmental agencies were settled through conciliation agreements. The two allegations that were brought against corporations, organizations, *et al.*, resulted equally in one conciliation agreement (50%) and one finding of "Reason to Believe" that the allegation was true (50%).

The second most common type of allegation that was referred to the Federal Election Commission by other governmental agencies was corporate contributions or corporate expenditures. A total of three allegations (60%) were lodged against candidate, national party, or other political committees. The remaining two allegations (40%) were brought against corporations, organizations, *et al.* The Federal Election Commission found "No Reason to Believe" that any of these allegations brought against corporations, organizations, *et al.*, or candidate, national party, or other political committees, were true.

The third most common type of allegation referred to the FEC by other government agencies related to disclosure. A total of three disclosure related allegations (75%) that were referred to the Federal Election Commission by other governmental agencies were brought against candidate, national party, or other political committees. The remaining disclosure allegation (25%) was brought against an individual.

The FEC found "Reason to Believe" that one-third of this type of allegation brought against candidate, national party, or other political committees, was true. The disposition for

the remaining two allegations (66.66%) was unclear. The FEC also found "Reason to Believe" that the allegation brought against the individual was true.

Lastly, a total of four allegations of prohibited contributions were referred to the Federal Election Commission by other governmental agencies. Two of these allegations (50%) were brought against corporations, organizations, *et al.*, while the remaining allegations (50%) were split with one allegation alleged against individuals and one allegation alleged against candidate, national party, or other political committees. The FEC found "No Reason to Believe" that one of the allegations against corporations, organizations, *et al.* was true. The FEC took no action on the other allegation. The FEC took no action on the allegations brought against individuals or candidate, national party, or other political committees.

**ALLEGATIONS BROUGHT VIA *SUA SPONTE*:**

Individuals can also bring possible allegations that they believe that they may have committed to the attention of the Federal Election Commission. The most common type of allegation (38.46%) that was brought to the attention of the FEC via *sua sponte* was allegations related to contributions in the names of others. A majority of these allegations relating to contributions in the names of others (80%) were made against individuals. The respondent for one of these allegations (20%) was unclear.

Allegations of contributions in the names of others that were brought *sua sponte* against individuals resulted in Federal Election Commission findings of "Reason to Believe" that the allegations were true 75% of the time. The remaining 25% of allegations were settled through

conciliation agreements between the individuals involved and the FEC. The FEC took an average of 20.37 months to resolve each of these allegations.

The second most common type of *sua sponte* allegation involves contributions by foreign nationals at 23.08%. A total of two allegations (66.67%) were brought against individuals. The remaining allegation (33.33%) was brought against candidate, national party, or other political committees. One of the allegations against individuals resulted in a conciliation agreement, while the other allegation resulted in an FEC finding of "Reason to Believe" that the allegation was true. The allegation brought against candidate, national party, or other political committees was also settled through a conciliation agreement. The FEC took an average of eight months to resolve each of these allegations.

Other types of allegations brought via *sua sponte* that constituted more than one percent of this type of allegation were: exceeding the maximum \$25,000 annual contribution limit (15.38%); allegations related to disclaimers (15.38%), and other contribution violations or prohibited contributions (7.69%). It is important to note, however, that while the percentages that each of the above other types of allegations brought via *sua sponte* may seem significant, the absolute numbers of allegations involved total two or less.

Also of importance, the data indicate that individuals do not generally appear to bring allegations to the attention of the FEC via *sua sponte* for these allegation categories: contributions by minors; the use or transfer of non-federal funds/assets; allegations relating to independent expenditures; allegations related to coordinated expenditures; allegations related to the improper allocation

of state and federal funds; allegations related to registering and filing disclosure statements, statements of organization, etc.; or allegations related to advertising or mailing. Individuals also do not generally initiate 24-hour reporting allegations, 48-hour reporting allegations, crime/theft/fraud/mis- representations, or influence related allegations, via *sua sponte*.

**ALLEGATIONS AGAINST POLITICAL ACTION COMMITTEES:**

The top allegations against political action committees are detailed in Table XXXIII.

Table XXXIII: Top Allegations Brought Against PACs By Percentage

Failure to Register and File Disclosure Statements or Statements of Organization	54.55%
Contribution Limitation Violations Or Excessive Contributions	11.69%

Table XXXIV on the next page indicates the average length of time in months that the FEC took to resolve the top allegations brought against political action committees.

Table XXXIV: Average Number of Months the FEC Took to Resolve the Top Allegations Brought Against PACs

Failure to Register and File Disclosure Statements or Statements of Organization	6.49 Months
Contribution Limitation Violations Or Excessive Contributions	11.27 Months

Allegations that political action committees failed to register and file disclosure statements or that they failed to file statements of organization were typically resolved through conciliation agreements between the PAC and the FEC. A total of 73.81% of these allegations were resolved through the conciliation process. Another 16.67% of these allegations saw the FEC take no action. The FEC also found

"Reason to Believe" that an allegation was true in 7.14% of these allegations. Lastly, the FEC found "Probable Cause" to believe and initiated litigation on one allegation (2.38%).

Among contribution limitation allegations or excessive contribution related allegations, the FEC took no action on two-thirds of the allegations (66.67%). The Federal Election Commission reached conciliation agreements with another 22.22% of the respondent political action committees. Lastly, the FEC found "No Reason to Believe" that the allegations were true 11.11% of the time.

Some of the other types of allegations brought against political action committees were: contributions by foreign nationals (7.79%); allegations related to disclaimers (6.49%); other contribution violations or prohibited contributions (5.19%); general disclosure related allocations (2.60%); improper solicitations or corporate solicitation/facilitation (2.60%); and other assorted allegations (2.60%). It is important to note, however, that while the percentages that each of the above other types of allegations brought against political action committees may or may not seem significant, the absolute numbers of allegations involved total six or less.

#### **ALLEGATIONS AGAINST INDIVIDUALS**

The vast majority of allegations made against individuals relate to contribution limit violations or excessive contributions, contributions made in the names of others, the "other assorted allegations" category, and corporate contributions or expenditures. The percentage breakdowns of these allegations against individuals can be found in Table XXXV.

Table XXXV: Top Allegations Brought

Against Individuals By Percentage

Contributions in the Names of Others	18.99%
Corporate Contributions or Expenditures	12.84%
Contribution Limit Violations or Excessive Contributions	12.48%
The "Other Assorted Allegations" Category	12.12%

Table XXXVI on the next page indicates the average length of time in months that the Federal Election Commission took to resolve the top allegations against individuals.

Table XXXVI: Average Number of Months the FEC took to Resolve the Top Allegations Brought Against Individuals

Contributions in the Names of Others	20.02 Months
Corporate Contributions or Expenditures	14.46 Months
Contribution Limit Violations or Excessive Contributions	25.26 Months
The "Other Assorted Allegations" Category	10.76 Months

Allegations of contributions in the names of others that were leveled against individuals found the Federal Election Commission taking no action 61.11% of the time. The FEC found "Reason to Believe" that another 13.89% of the allegations were true. Another 13.89% of these allegations were resolved when the individuals involved and the FEC reached a conciliation agreement. Lastly, the FEC found "No Reason to Believe" that an allegation was true in 11.11% of these allegations.

The FEC took no action on a majority of the corporate contributions or corporate expenditure allegations lodged against individuals. In total, 78.87% of these corporate contribution or corporate expenditure allegations resulted in the FEC taking no action. Another 11.27% of these allegations resulted in FEC findings of "Reason to Believe." The FEC found "Reason to Believe, willful and knowing" in another 2.82% of allegations. Findings of "No Reason to Believe" that the allegations were true were reached in 5.63% of the allegations. Lastly, conciliation agreements were reached between the individuals involved and the FEC in only 1.41% of these allegations.

An examination of the resolutions of the top allegations brought against individuals indicates that a majority (75.36%) of contribution limitation violations or excessive contribution allegations brought against individuals result in the FEC taking no action. An additional 10.14% of these

allegations resulted in FEC findings of "Reason to Believe." Approximately ten percent of these allegations (10.14%) resulted in conciliation agreements between the individuals involved and the FEC. Only 4.35% of these allegations resulted in the FEC finding "No Reason to Believe" that the allegation was true.

Among the allegations brought against individuals that were classified in the "other assorted allegation" category, a majority (80.60%) found the Federal Election Commission taking no action. The FEC found "Reason to Believe, Knowing and Willful," but took no further action, on 13.43% of the allegations. Lastly, the FEC found "No Probable Cause to Believe" that 5.97% of the allegations were true.

Some of the other allegations brought against individuals include: general disclosure related allegations (7.78%); allegations related to disclaimers (5.97%); failure to register and file disclosure statements or statements of candidacy or organization (5.06%); influence related allegations (4.52%); other contribution violations or prohibited contributions (3.25%); and exceeding the maximum \$25,000 annual contribution limit (3.07%).

**ALLEGATIONS AGAINST CORPORATIONS, ORGANIZATIONS, ET AL.:**

The majority of allegations lodged against corporations, organizations, universities, churches, Indian tribes, and other similar entities, are related to corporate contributions or expenditures, contributions by foreign nationals, and the "other assorted allegations" category. These tier one allegations lodged against corporations, organizations, *et al.*, are detailed in Table XXXVII.

Table XXXVII: Tier One Allegations Brought Against Corporations, Organizations, *et al.*, By Percentage

Corporate Contributions or Expenditures	33.23%
Contributions by Foreign Nationals	26.15%
The "Other Assorted Allegations" Category	14.77%

Table XXXVIII indicates the average length of time in months that the FEC took to resolve the tier one allegations brought against corporations, organizations, *et al.*

Table XXXVIII: Average Number of Months the FEC Took to Resolve Allegations Brought Against Corporations, Organizations, *et al.*

Corporate Contributions or Expenditures	14.80 Months
Contributions by Foreign Nationals	51.75 Months
The "Other Assorted Allegations" Category	19.78 Months

A total of 73.15% of the corporate contribution or corporate expenditure related tier one allegations against corporations, organizations, *et al.*, resulted in the FEC taking no action. In 8.33% of this class of allegations the FEC found "Reason to Believe." The FEC found "No Reason to Believe" or "Failed to Find Reason to Believe," in 13.89% of these allegations. Respondents and the FEC reached conciliation agreements in 1.85% of these allegations. Lastly, one allegation (.93%) resulted in an FEC finding of "Probable Cause Reported," in which litigation was

authorized, while the dispositions of two other allegations (1.85%) remains unclear.

Among the allegations brought against corporations, organizations, *et al.*, for contributions by foreign nationals, the Federal Election Commission found "Reason to Believe" that slightly less than one-third of these allegations were true (32.94%). The FEC and respondents reached conciliation agreements in another 25.88% of these allegations. Another 18.82% of these allegations saw the FEC take no action on the allegations. Lastly, 22.35% of these allegations resulted in FEC findings of "No Reason to Believe" that the allegations were true.

The vast majority of allegations (83.33%) brought against corporations, organizations, *et al.*, that were classified in the "other assorted allegations" category found the Federal Election Commission taking no action. Another 6.25% of the allegations were closed after the FEC found "Probable Cause to Believe" that the allegations were true, such that litigation was authorized. The FEC found "Reason to Believe" that the allegations were true in 4.17% of the allegations, while finding "No Probable Cause" to believe that a like amount were true. Only one allegation (2.08%) was settled through the reaching of a conciliation agreement between the FEC and the respondents involved.

A second tier of allegations against corporations, organizations, *et al.*, is detailed in Table XXXIX.

Table XXXIX: Tier Two Allegations Brought Against Corporations, Organizations, *et al.*, By Percentage

Allegations Related to Disclaimers	5.23%
Other Contribution Violations or Prohibited Contributions	5.23%

Table XXXX indicates the average length of time in months that the FEC took to resolve tier two allegations brought against corporations, organizations, *et al.*

Table XXXX: Average Number of Months the FEC Took to Resolve Tier Two Allegations Brought Against Corporations, Organizations, *et al.*

Allegations Related to Disclaimers	20.48 Months
Other Contribution Violations or Prohibited Contributions	10.30 Months

A majority (82.35%) of all disclaimer related allegations brought against corporations, organizations, *et al.*, resulted in the Federal Election Commission taking no action. The FEC found "No Reason to Believe" that the remaining 17.65% of allegations were true.

Allegations of other contribution violations or prohibited contributions resulted in the FEC taking no action 64.71% of the time. In addition, a total of 23.53% of these allegations were closed after the FEC found "Reason to Believe" that the allegations were true. Another 5.88% of these allegations each resulted in the FEC finding "No Reason to Believe" that the allegations were true, and the reaching of conciliation agreements with the respondents involved.

Some of the other types of allegations that were brought against corporations, organizations, *et al.*, include: failure to register and file disclosure statements (3.69%); general disclosure related allegations (3.38%); and advertising and mailing related allegations (1.54%).

**ALLEGATIONS AGAINST CANDIDATE, NATIONAL PARTY, AND OTHER POLITICAL COMMITTEES:**

The top allegations made against candidate, national party, and other political committees relate to general disclosure related problems, failure to register and file

disclosure statements or statements of candidacy or organization, corporate contributions, allegations related to disclaimers, and failure to file 48-hour reports. The percentage breakdowns of these top allegations lodged against candidate, national party, and other political committees, considered together, can be found in Table XXXXI below.

Table XXXXI: Top Allegations Brought Against Candidate, National Party, and Other Political Committees By Percentage

General Disclosure Related Allegations	13.45%
Failure to Register and File Disclosure Statements or Statements of Candidacy or Organization	13.06%
Corporate Contributions or Expenditures	12.48%
Allegations Related to Disclaimers	11.11%
Failure to File 48-Hour Reports	10.33%

Table XXXXII indicates the average length of time in months that the FEC took to resolve these allegations brought against candidate, national party, and other political committees.

Table XXXXII: Average Number of Months the FEC Took the Top Allegations Brought Against Candidate, National Party, and Other Political Committees

General Disclosure Related Allegations	22.46 Months
Failure to Register and File Disclosure Statements or Statements of Candidacy or Organization	8.50 Months
Corporate Contributions or Expenditures	12.98 Months
Allegations Related to Disclaimers	11.79 Months
Failure to File 48-Hour Reports	12.20 Months

The FEC did not take action on 65.22% of general disclosure related allegations lodged against candidate, national party committees, and other political committees. An additional 17.39% of these allegations resulted in the FEC finding "Reason to Believe." Conciliation agreements were reached between only 8.70% of these respondents and the FEC. Only 4.35% of these allegations resulted in the FEC finding

"No Reason to Believe" or "Failed to Find Reason to Believe." And, the disposition for three of the allegations (4.35%) remains unclear.

A total of 46.27% of the allegations related to failure to register and file disclosure reports or statements of organization made against candidate, national, or other political committees, were resolved with the FEC taking no action. In 38.81% of these cases, however, the FEC and the respondents reached conciliation agreements. The FEC found "Reason to Believe" in an additional 10.45% of these allegations. Findings by the FEC of "No Reason to Believe" or "Failed to Find Reason to Believe" were found in only 2.99% of allegations. Lastly, the FEC found "Probable Cause to Believe" that one allegation (1.49%) was true, but chose not to litigate the matter.

Corporate contributions and corporate expenditure related allegations brought against candidate, national party, or other political committees were most often resolved with the FEC taking no action. A total of 76.56% of these allegations resulted in the FEC taking no action. In 4.69% of these allegations the FEC found "Reason to Believe." The FEC found "No Reason to Believe" in another 14.06% of these allegations. Conciliation agreements were reached between the FEC and these respondents in just 3.13% of these allegations. Lastly, the disposition for one allegation (1.56%) was unclear.

A majority (60.59%) of disclaimer related allegations brought against candidate, national party, or other political committees resulted in the FEC taking no action. The FEC also found "No Reason to Believe" that the allegations were true another 25.88% of the time. In only 7.06% of allegations did the FEC find "Reason to Believe" that the

allegations were true. Another 4.71% of this class of allegation were settled through the reaching of conciliation agreements between the FEC and respondents. Lastly, two allegations (1.18%) resulted in FEC findings of "Probable Cause to Believe" where litigation was initiated, and one allegation (.59%) resulted in an FEC finding on "Reason to Believe," but where no further action was taken.

Allegations relating to the failure of candidate, national party, or other political committees, to file 48-hour reports were settled through conciliation agreements 81.13% of the time. The FEC took no action on this these allegations 11.32% of the time. The FEC found "Reason to Believe" that 5.66% of the allegations were true. And, only one allegation (1.89%) was closed after the FEC found "Probable Cause to Believe that the allegation was true, but where no further action was taken.

Some of the other types of allegations that were brought against candidate, national committee, or other political committees included: the other assorted allegation category (5.46%); the use or transfer of non-federal funds or assets for federal campaign purposes (4.09%); other contribution violations or other prohibited contributions (2.92%); and influence related allegations (1.75%).

#### **Section Four: Discussion of Profiles**

At the point in time that the Federal Election Commission first adopted the Enforcement Prioritization System (EPS), the Commission closed a number of cases that "involved little money, had little impact on the election process, or had little remaining enforcement value."<sup>18</sup>

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<sup>18</sup> Remarks by then FEC Chairman Scott E. Thomas, presented at the Press Conference on Enforcement Prioritization, National Press Club, December 13, 1993, p. 6.

According to the Federal Election Commission, "a number of these cases involved committees or individuals who had little campaign finance experience."<sup>19</sup> Two areas that seem to be the focus of the EPS include, "the presence of knowing and willful intent... the timing of the violation; and whether a particular legal area needs special attention."<sup>20</sup> From these comments by individuals at the Federal Election Commission, it seems reasonable to conclude that older cases, cases that were deemed to involve insignificant violations of the FECA, cases that involved smaller amounts of money, cases that had a minimal impact on the electoral process, and cases that were not likely to have a significant deterrent impact on those regulated by the FEC, were not likely to be pursued.

When one examines the pre- and post-prioritization enforcement profiles, it becomes possible to see the degree to which Federal Election Commission enforcement of compliance allegations has changed since the implementation of the Enforcement Prioritization System. Simply put, the data indicate that the federal campaign finance laws are still being enforced, but that the vast majority of allegations now see no action being taken. More than 66.02% of all allegations lodged with or brought by the Federal Election Commission during the post-enforcement prioritization system time period saw no action taken. This figure compares with approximately 16.49% of all allegations during the pre-enforcement prioritization time period having no action taken. The Federal Election Commission was also more likely to find "No Reason to Believe" that an allegation

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<sup>19</sup> Press Release: "FEC Strengthens Enforcement by Implementing Prioritization of Cases - Changes will include faster resolution of major cases", December 13, 1993, p. 2.

<sup>20</sup> Ibid.

was true during the pre-enforcement prioritization time period (22.28%), than during the post-enforcement time period (7.99%). Additionally, the Federal Election Commission reached conciliation agreements 2.9 times as often during the pre-enforcement prioritization time period, as during the post-enforcement prioritization time period

The data also indicate that the Federal Election Commission initiated more single allegations as a percentage during the pre-prioritization time period covered by the profiles than the agency initiated during the post-enforcement prioritization time period. The FEC initiated 43.52% of the single allegations during the pre-enforcement time period. During the post-enforcement time period, the FEC initiated only 13.36% of the allegations. In absolute numbers, the FEC initiated more than 2.5 times as many single allegations during the pre-enforcement prioritization time period, as it did during the post-enforcement time period.

When one examines the data, it becomes clear that most allegations are not closed at the point that they are deemed "willful." It is possible that the agency is able to enter into conciliation agreements with some of those who may be involved in willful violations. That said, several individuals close to the agency indicated that if a candidate seeks advice from an attorney, then any violation that results from following this advice can not be deemed willful because the candidate sought legal advice. Hence, when the Clinton/Gore 1996 Presidential campaign may have appeared to have committed a "willful" violation of the campaign finance law, if an attorney was consulted, then it became practically impossible for the Federal Election Commission to find a "willful" violation.

In terms of workload, more allegations in which a respondent was involved in a single allegation were processed by the Federal Election Commission in the years since the enactment of the enforcement prioritization system, than were processed in the years immediately prior to the enactment of the enforcement prioritization system. Fully, more than 1,489 single allegations were processed by the Federal Election Commission in the years since the enforcement prioritization system was enacted versus 1,158 single allegations during the several years prior to the adoption of the new enforcement procedures.

The vast majority of all allegations originate with individuals outside the Federal Election Commission. A total of 51.47% of all single allegations during the pre-enforcement prioritization time period, and a total of 84.35% of all single allegations during the post-enforcement prioritization time period were initiated by individuals outside the Federal Election Commission.

The data further indicate that the Federal Election Commission is much more likely to take action when the agency initiates the compliance case than when an individual outside the Federal Election Commission files a complaint. During the post-enforcement prioritization time period, the Federal Election Commission did not act on 76.99% of all single allegations brought by individuals outside of the Federal Election Commission. That means that the Federal Election Commission took little or no action on over three in four single allegations brought by individuals outside the agency. It is this type of perceived inaction on the part of the Federal Election Commission that likely incites the public outcry for federal campaign finance "reforms." By contrast, the Federal Election Commission did not act on only 5.52% of

internally generated allegations during the post-enforcement time period.

The Federal Election Commission reached conciliation agreements in 75.59%, and found "Reason to Believe" in 15.48%, of all internally generated matters during the pre-enforcement time period. During the post-enforcement time period, the FEC reached conciliation agreements on 63.82% of the single allegations initiated by the FEC. The FEC also found "Reason to Believe" that another 21.61% of the internally generated matters during the post-enforcement prioritization time period were true. Clearly, the FEC is having marked success when it comes to enforcing allegations that the agency, itself, is initiating.

During the pre-enforcement time period, the FEC reached conciliation agreements with 8.05% of respondents when the allegations were brought by individuals, committees, and organizations outside the FEC. The FEC also found "Reason to Believe" that another 15.27% of these allegations were true. This compares with the FEC reaching conciliation agreements with 4.14% of respondents who had allegations brought by individuals, committees, and organizations outside the FEC during the post-enforcement prioritization time period. The FEC also found "Reason to Believe" that these allegations were true 9.24% of the time. Based upon these data it can be concluded that the FEC is not reaching as many conciliation agreements or finding "Reason to Believe" in the post-enforcement time period, as it reached during the several years prior.

The data clearly indicate that the FEC is not having as much success when it comes to prosecuting allegations initiated by individuals, committees, and organizations outside the FEC, as it is having with internally generated

compliance matters. By acting on matters that are internally generated, the agency was able to prove its value to those in Congress, while avoiding what the agency may deem to be politically motivated allegations brought by outsiders. Therefore, there does appear to be a vast difference in the way the agency treats allegations that are internally generated verses those that are generated by individuals outside the agency.

The Federal Election Commission can punish those who might push the limits of the law by means of the issuance of admonishment letters and the levying of fines. In the several years covered by the pre-enforcement prioritization profile, the Federal Election Commission sent admonishment letters to the following percentages of respondents involved in single allegations before the Commission: .89% of political action committees; 1.77% of individuals; none of corporations, organizations, *et al.*; and 1.61% of candidate, national party, or other political committees. By way of comparison, the Federal Election Commission sent admonishment letters to the following percentages of respondents involved in allegations before the Commission during the time period covered by the post-enforcement profile: 3.90% of political action committees; 6.50% of individuals; 10.46% of corporations, organizations, *et al.*; and 12.09% of candidate, national party, or other political committees. The conclusion that can be reached from the above data is that the Federal Election Commission does not issue admonishment letters to a large percentage of respondents involved in allegations before the Commission, but that a larger percentage of respondents received admonishment during the post-enforcement prioritization time period, than were sent

in the several years prior to the enactment of the enforcement prioritization system.

With the exception of political action committees, the Federal Election Commission generally does not appear to levy a significant number of fines against those involved in allegations brought before the Commission. The Federal Election Commission levied fines for single allegations brought against the following percentages of respondents during the time period covered by the pre-enforcement profile: 81.78% of political action committees; 18.37% of individuals; 11.54% of corporations, organizations, *et al.*; and 43.68% of candidate, national party, or other political committee. In fact, the Federal Election Commission levied even fewer fines as a percentage during the time period covered by the post-enforcement profile. It levied fines for single allegations brought against the following percentages of respondents during the time period covered by the post-enforcement profile: 49.35% of political action committees; 4.88% of individuals; 10.46% of corporations, organizations, *et al.*; and 18.52% of candidate, national party, or other political committees. A full breakdown of fines levied by the FEC against each type of respondent during both the pre-enforcement and post-enforcement time periods can be found in Table XXXXIII through Table XXXXVII. The conclusion that is readily apparent is that the percentage of allegations resulting in the FEC levying fines has declined since the agency adopted its Enforcement Prioritization System.

Tables XXXXIII through XXXXVII detail the percentages of allegations resulting in fines by type of fine during the periods covered by the pre-enforcement profile and the post-enforcement profile.

Table XXXXIII: Fines Levied for Allegations Brought  
 Against All Respondents During the Pre- and Post-  
 Enforcement Prioritization Time Periods in Percentages

Type of Fine	Pre-	Post-
No Penalty	61.05%	86.90%
\$999 or less	18.48%	1.07%
\$1000 to \$4999	16.67%	5.31%
\$5000 to \$9999	2.25%	3.29%
\$10,000 to \$24,999	1.21%	2.22%
\$25,000 to \$49,999	0.26%	0.67%
\$50,000 and over	0.00%	0.54%
Unclear	0.09%	0.00%

Table XXXXIV: Fines Levied for Allegations Brought  
 Against Political Action Committees During the Pre- and  
 Post- Enforcement Prioritization Time Periods in Percentages

Type of Fine	Pre-	Post-
No Penalty	18.22%	50.65%
\$999 or less	55.11%	6.49%
\$1000 to \$4999	23.11%	32.47%
\$5000 to \$9999	0.89%	6.49%
\$10,000 to \$24,999	2.22%	3.90%
\$25,000 to \$49,999	0.44%	0.00%
\$50,000 and over	0.00%	0.00%

Table XXXXV: Fines Levied for Allegations Brought Against Individuals During the Pre- and Post- Enforcement Prioritization Time Periods in Percentages

Type of Fine	Pre-	Post-
No Penalty	81.63%	95.12%
\$999 or less	10.25%	0.18%
\$1000 to \$4999	4.95%	1.45%
\$5000 to \$9999	1.77%	2.17%
\$10,000 to \$24,999	0.71%	0.72%
\$25,000 to \$49,999	0.35%	0.18%
\$50,000 and over	0.00%	0.18%
Unclear	0.35%	0.00%

Table XXXXVI: Fines Levied For Allegations Brought Against Corporations, Organizations, *et al.*, During the Pre- and Post- Enforcement Prioritization Time Periods in Percentages

Type of Fine	Pre-	Post-
No Penalty	88.46%	89.54%
\$999 or less	5.77%	1.85%
\$1000 to \$4999	4.33%	1.54%
\$5000 to \$9999	0.48%	2.77%
\$10,000 to \$24,999	0.96%	1.85%
\$25,000 to \$49,999	0.00%	1.54%
\$50,000 and over	0.00%	0.92%

Table XXXXVII: Fines Levied for Allegations Brought Against Candidate, National Party, or Other Political Committee During the Pre- and Post- Enforcement Prioritization Time Periods in Percentages

Type of Fine	Pre-	Post-
No Penalty	56.32%	81.48%
\$999 or less	11.26%	0.78%
\$1000 to \$4999	26.90%	7.80%
\$5000 to \$9999	4.14%	4.48%
\$10,000 to \$24,999	1.15%	3.90%
\$25,000 to \$49,999	0.23%	0.78%
\$50,000 and over	0.00%	0.78%

This chapter examined clearly discernible single allegation enforcement activities of the Federal Election Commission from April of 1989 through December of 1998. From this data, two sets of single allegation enforcement

profiles were created documenting Federal Election Commission enforcement of Matters Under Review. The data clearly indicate that the Federal Election Commission is undertaking enforcement of our nation's campaign finance laws. The question arises, however: Does the Federal Election Commission undertake regulatory enforcement in a competent manner? The next chapter will examine the issue of agency competence through Kenneth Meier's variables.

## Chapter Seven

### Agency Competence: An Examination

The ability of regulatory agencies to accomplish their legislative charge often requires more than the development of a technical expertise in the policy area – it also requires competence on the part of the regulatory agency. In the book, Politics and the Bureaucracy: Policymaking in the Fourth Branch of Government, Kenneth J. Meier outlines four factors that determine regulatory agency competence. These four factors are effectiveness, timeliness, efficiency, and reliability. Each of these factors must be present for the regulatory agency to be deemed “competent.” In order to determine if the Federal Election Commission is “competent” in carrying out its legislative charge to enforce federal campaign finance law, each will now be explored.

#### **Effectiveness:**

Agency effectiveness is a measure of how well the regulatory agency achieves the policy objectives established by the “norm” or the adjusted law. This dissertation seeks to determine if the enactment of the Enforcement Prioritization System by the Federal Election Commission has made the agency more effective in its enforcement of campaign finance law. Three factors are examined: impact of the Enforcement Prioritization System, the imposition of fines by the Federal Election Commission, and the issuance of admonishment letters to respondents.

Impact of the Enforcement Prioritization System. The data contained in the enforcement profiles indicate that

enforcement of federal campaign finance law is occurring across the range of possible violations. The Federal Election Commission is "keeping its finger" in a wide array of allegations in order to send the message to the regulated community that all types of allegations will be enforced. In some instances the agency appears to impose large punitive fines upon a few participants in order to discourage others from violating the law. In other instances the agency appears to take a scattered approach by undertaking enforcement in some cases, but not in others. The result is that those who face allegations for violating federal campaign finance law may or may not find enforcement action being taken against them.

As the enforcement profiles presented in the previous chapter document, very few types of allegations result in the Federal Election Commission taking significant action. During the post-enforcement prioritization time period, the Federal Election Commission appears to be having mixed success in the area of enforcement against political action committees. A total of 73.81% of allegations lodged against political action committees for failure to register and file disclosure statements were resolved through conciliation agreements, while only 16.67% of these same allegations saw the FEC take no action. An examination of the data shows a striking difference when one looks at contribution limitation or excessive contribution related allegations brought against political action committees. Two-thirds of these allegations saw the FEC take no action, while 22.22% resulted in conciliation agreements, and 11.11% were closed after the agency found "Reason to Believe" that the allegations were true. The conclusion that can be reached is that the degree of FEC enforcement

action taken on allegations brought against political action committees during the post-enforcement prioritization time period is mixed.

Among individual respondents, the Federal Election Commission's record of enforcement action during the post-enforcement prioritization period also appears to be mixed. First, some enforcement by the FEC also appears to be present for allegations of contributions in the names of others that were brought against individuals. The FEC found "Reason to Believe" that nearly fourteen percent (13.89%) of these allegations were true, while it reached conciliation agreements to settle another 13.89% of the allegations. The problem, however, is that the agency took no action on nearly two-thirds (61.11%) of the allegations. Second, the FEC did not undertake significant enforcement against individuals for corporate contributions during the post-enforcement prioritization time period. The FEC did not act on four-in-five (78.87%) of these allegations brought against individuals. This compares with only 11.27% of this same type of allegation resulting in FEC findings of "Reason to Believe" that the allegations were true. A majority (75.36%) of contribution limit or excessive contribution related allegations saw the FEC take no action. Some enforcement, however, is present with the FEC finding "Reason to Believe" that 10.14% of the allegations were true. Likewise, the FEC and respondents entered into conciliation agreements with respondents to settle another 10.14% of these allegations. Lastly, more than four-in-five (80.60%) of the allegations falling into the "other assorted allegations" category that were brought against individuals saw the FEC take no action. In general, it appears that significant action on the part of

the FEC for allegations brought against individuals during the post-enforcement prioritization time period appears to be minimal.

Enforcement efforts by the Federal Election Commission against corporations, organizations, *et al.* also appear to be mixed. The Federal Election Commission did not act on a majority (73.15%) of allegations of corporate contributions brought against corporations, organizations, *et al.*; however, it appears to be enforcing allegations of foreign national contributions brought against them. Approximately one-third (32.94%) of the foreign national contribution related allegations brought against corporations, organizations, *et al.*, resulted in the FEC finding "Reason to Believe" that the allegations were true. Furthermore, another 25.88% of these allegations were resolved through conciliation agreements between the respondents and the FEC. Lastly, the FEC took no action on 83.33% of the single allegations against corporations, organizations, *et al.* Overall, the FEC's enforcement efforts on allegations lodged against corporations, organizations, *et al.*, appears to be mixed, if not weak, overall.

Allegations against candidate, national parties, or other political committees during the post-enforcement prioritization time period appear to be not significantly enforced by the FEC. The FEC did not act on 65.22% of general disclosure related allegations lodged against candidate, national party, or other political committees. That said, the FEC did find "Reason to Believe" that 17.39% of these allegations were true, while reaching conciliation agreements to settle another 8.70%. In the area of failure to register and file disclosure statements or statements of organization, a plurality had no action taken by the FEC.

Another 38.81% of these allegations were settled through conciliation agreements. Lastly, 10.45% were closed after the FEC found "Reason to Believe" that the allegations were true. Clearly, enforcement action by the FEC is taking place among some, but not all, of the allegations lodged against candidate, national party, or other political committees.

In many cases, the strongest action that the agency appears to take is a finding of "Reason to Believe." While a finding of "Reason to Believe" may sometimes include the issuance of an admonishment letter from the Federal Election Commission to the respondent, this type of finding does not typically include the levying of a fine. Furthermore, fines occur most often when conciliation agreements are reached or when the Federal Election Commission has won a judgment after a lengthy court battle. But, only 9.46% of allegations during the post-enforcement prioritization time period resulted in conciliation agreements. And, a total of 66.67% of the allegations that were litigated resulted in the issuance of fines, but this accounted for only six of nine allegations that were litigated.

Fines. The data indicate that not only are a larger percentage of allegations against respondents during the post-enforcement prioritization system time period resulting in no fine being levied, but a smaller percentage of fines in the \$1,000 to \$4,999, and sub \$1,000, categories are being levied, as well. Additionally, with the exception of several fine categories for candidate, national party, or other political committees, and corporations, organizations, *et al.*, fewer allegations have been included in Matters Under Review that resulted in

larger category fines during the five years since the enactment of the Enforcement Prioritization System, than in the time period covered by the pre-enforcement profile.

Countering the perception that the Federal Election Commission is not taking action or issuing a large number of fines is the Federal Election Commission itself. In recent years, the Federal Election Commission has successfully won, or leveled, a number of large fines. Additionally, the amount that the agency can fine respondents has increased. Therefore, the Federal Election Commission is bringing in significant amounts of money through the levying and collection of fines. But, the collection of larger fines does not mean that the law is being enforced in such a manner as to be a significant deterrent when winning is at stake for a member of the regulated community. The data clearly indicate that only a small percentage of allegations against respondents actually result in fines being assessed. And, the data further indicate that the percentage of allegations resulting in fines appears to have dropped since the implementation of the Enforcement Prioritization System. So, if fines are money – and money talks loudly in politics, then the fines of the Federal Election Commission are but a distant whisper.

Admonishment Letters. The data clearly indicate that the Federal Election Commission is issuing more admonishment letters during the post-enforcement prioritization time period, than the agency issued during the pre-enforcement prioritization time period.

**Timeliness:**

Regulatory agencies are supposed to carry out their legislative charges in a timely manner. For purposes of evaluating timeliness, this dissertation asks: did the Federal Election Commission generally resolve compliance cases within one election cycle or twenty-four months? The data indicate that, in numerous instances, the Federal Election Commission resolves allegations in a timely manner. The FEC resolved two of the top three types of referral allegations (contributions in the names of others, 2.67 months; corporate contributions, opened and closed in the same day; general disclosure related allegations, 61.57 months) within this time period.

The FEC also resolved two of the top three allegations brought by outside individuals, committees, *et al.* (contributions by foreign nationals, 38.57%; corporate contributions, 13.97 months; and allegations falling into the "other assorted allegations" category, 15.00 months) within the twenty-four month period.

The FEC also met the twenty-four month goal for resolving the top allegations initiated by the FEC. The FEC on average took 6.43 months to resolve the allegations brought by the FEC for the failure of respondents to register and file disclosure statements or statements of organization. The FEC also resolved FEC initiated allegations of failure to file 48-hour reports in an average of 12.18 months. The FEC also took an average of 14.76 months to resolve FEC initiated contribution limitation violations or excessive contributions, and an average of 21.51 months to resolve FEC initiated allegations of corporate expenditures.

The Federal Election Commission appears to have acted within the twenty-four month time span for the top

allegations brought against political action committees. The FEC took an average of 6.49 months to resolve allegations that political action committees failed to register and file disclosure statements or statements of organization. The FEC was able to resolve allegations of contribution limitation violations or excessive contribution related allegations brought against political action committees typically within 11.27 months.

The Federal Election Commission also appears to have been successful in acting on average within twenty-four months for the top allegations brought against individuals. The FEC took an average of 20.02 months to resolve allegations against individuals for contributions in the names of others. Allegations of corporate contribution took an average of only 14.46 months to resolve.

The Federal Election Commission's record of acting within twenty-four months for allegations against candidate, national party, or other political committees, and against corporations, organizations, *et al.*, were both mixed. The FEC was able to resolve allegations of improper corporate contributions or corporate expenditures brought against candidate, national party, or other political committees, on average within the twenty-four month time period (14.80 months).

The data tell the reader that for most types of respondents, and for most types of allegations, the Federal Election Commission has been quite successful in acting within a span of twenty-four months.

**Efficiency:**

Agency efficiency in the area of compliance competency measures whether the Federal Election Commission is able to

cope with its compliance case workload. One of the primary reasons the Federal Election Commission adopted the Enforcement Prioritization System was to improve agency efficiency. When taken as a whole, it does appear that the adoption of the enforcement prioritization system by the Federal Election Commission has improved the agency's ability to handle its compliance caseload within its limited resources. The agency disposed of more allegations in the several years under the prioritization system than in the years immediately preceding the new system. On the other hand, the vast majority of the allegations that the Federal Election Commission is disposing of are cases that have had no action, or limited action, taken. Therefore, while the agency may be disposing of more cases, the agency's overall record of enforcement within the regulated constituency appears mixed.

**Reliability:**

The last major factor of competence that Kenneth Meier considers is reliability. Three aspects were considered: (1) do agency officials know what they are doing; (2) do agency officials act consistently; (3) is agency behavior predictable.<sup>21</sup> Federal Election Commission officials appear to know what they are doing. Agency officials appear to understand the technical nature of federal campaign finance law. They also appear to act in a consistent and predictable manner. The Enforcement Prioritization System serves as a consistent guide for agency officials in determining what types of allegations will be pursued and what types of allegations will be ignored. Federal Election Commission officials also

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<sup>21</sup> Ibid.

utilize set formulas in order to determine when to audit respondents and what types of fines to assess. Furthermore, when agency Commissioners move beyond the action guidelines presented by the Office of the General Counsel, Federal Election Commissioners appear to readily bargain in favor of equitable solutions to compliance case allegations. In sum, it appears that agency officials at the Federal Election Commission are both knowledgeable about federal campaign finance law and consistent in their application and enforcement of the law.

Agency officials also appear to act in a fairly predictable manner. First, the previous chapter's examination of regulatory agency decision-making demonstrated the importance of repeat bargaining. When a bargain was reached, that bargain was found to serve as the basis of the next bargain. Second, the Federal Election Commission's use of Advisory Opinions provides the regulated community with a fair degree of predictability as to what the agency will do when given as specific situation. Third, the regulated community is free to contact agency analysts in order to receive advice on how to comply with the federal campaign finance laws.

#### **Chapter Discussion and Conclusion:**

On the surface, the data appear to buttress the fact that the Federal Election Commission, as a regulatory agency, is being more efficient in its enforcement of the law. But, efficiency is not the same thing as being effective. The degree of enforcement action, and the penalties involved when violations are found, is not extensive. When taken together, findings of "Reason to Believe," "Probable Cause to Believe" but no further action

taken, and "Probable Cause to Believe" litigation initiated by the Federal Election Commission, and the reaching of conciliation agreements between the respondents and the Federal Election Commission accounted for slightly more than one quarter (25.39%) of all single allegation dispositions. Furthermore, these were the only categories in which fines or admonishment letters were issued to respondents. Either a fine was assessed or an admonishment letter was sent for respondents involved in approximately 21.89% of all single allegations during the post-enforcement prioritization time period. This means that more than three quarters (78.11%) of all allegations during this time period generally do not result in the equivalent of a slap on the wrist. So, while the Federal Election Commission disposes of a large number of compliance case allegations in a timely manner, the enforcement that is taking place is not significant.

Kenneth Meier's definition of regulatory agency competence requires that all four of the factors that were outlined previously be met. It is clear that the Federal Election Commission is generally efficient and timely in the manner that it resolves compliance cases. The agency also appears to operate in a fairly reliable manner. The agency does not appear, however, to act in an "effective manner." As a result, the Federal Election Commission can not be considered "competent" in its enforcement of federal campaign finance law.

But, perhaps the agency's lack of success in the area of effectiveness, and hence its lack of competence, should be expected. Chapter Four explained how the Federal Election Commission is constrained. The implementation of the Enforcement Prioritization System did not eliminate any

of the policy tools available to Members of Congress and the President, nor did implementation of the Enforcement Prioritization System alter the four factors, outlined by Matthew Holden, Jr. that constrain the regulatory agency's decision-making processes. Commissioners are still faced with the technical complexity of federal campaign finance law. The social myths and values related to the role of money in the American political process continue to permeate society. The same avenues of repair for members of the regulated community to appeal for a better judgement continue to exist. And, the need for repeat interactions among the actors in the campaign finance process has not changed. Added to this is the static nature of the Commission's structure, its requirement for a bi-partisan vote in order for any formal action to be taken by the Commission, and its tight agency budget.

The result is a policy outcome that is fully consistent with Holden's theory. As the theory would expect to find, the implementation of the Enforcement Prioritization System by the Federal Election Commission did not substantially change the level of enforcement action or the penalties involved. Constrained bargaining continues to guide the decision-making process of agency regulators, thus leading to a furthering of the deviation between the ideal legislated policy "norm" enacted by the Congress and the President, and the enforcement reality that is taking place.

Is this lack of "effectiveness" on the part of the Federal Election Commission due to the constrained nature of the policy process? Or, is this lack of "effectiveness" due to the policy tools utilized by Congress and the President? The answer clearly is yes to both of these

questions. The level of agency "efficiency" is clearly a result of the policy tools available to Members of Congress and the President, and the four policy constraints outlined by Holden's theory.

In truth, many individuals and political entities within the agency's regulated community voluntarily comply with the Federal Election Commission's interpretation of the law. In this sense, the agency does seem to be effective in compelling voluntary compliance. It is primarily at the edges of the law, when winning is on the line, that interpretations of the law become murky. These individuals, campaign committees, and political action committees, rationally push the political envelope in their effort to win, or to influence those who win, because the political stakes are so great and enforcement by the Federal Election Commission will take place necessarily after the fact and with minimal, if any, consequence. But, this type of action is only rational!

If the Federal Election Commission does not take significant action on the vast majority of allegations, and what action it takes will necessarily be constrained and occur after the fact, what does this say to those who would consider pursuing their own self interests by pushing the limits of the law?

And, suppose that the United States Congress and the President made changes to our nation's federal campaign finance laws and enact a new ideal policy "norm." What would happen then? These new laws would add to the compendium of laws already on the books that regulate federal campaign finance in the United States. As with all other laws, these changes to our campaign finance system can, and likely would, be challenged in our nation's

federal courts, thus allowing the federal courts to issue their interpretations as to the meaning of one or more portions of any new federal campaign finance laws.

One can not forget, however, that a federal agency, be it the Federal Election Commission or some other regulatory agency, must be charged with implementing any existing and/or new federal campaign finance laws. The result will be that the regulatory agency will add its own interpretation to those offered by the Congress and the federal courts. This agency, as has been seen with the present Federal Election Commission, will have to interpret the law, structure a regulatory agency to accomplish what their interpretation of the law sets out, and enforce the law against a regulated constituency through a constrained regulatory decision-making process.

Once again, however, any new regulatory agency will be constrained by the technical nature of federal campaign finance. The agency will still have to determine who to regulate and who to ignore, how long to wait before regulating, and what to accept as compliance with the federal campaign finance laws. The devil will continue to be in the technical details of the law. Social values and myths will continue to impact the decision-making processes of Commissioners and other individuals involved in the regulatory process. Avenues of appeal for members of the regulated community will continue to exist. And, the repeat interaction by the actors in the American political process will continue. As in the past, the ideal policy "norm" will continue to be subject to the revision of the same Congress and President that the agency is charged with regulating. Lastly, the agency's interpretations of the law, and the manner in which it implements and enforces the law, will be subject to

examination, interpretation, and re-interpretation by the federal courts. The process is dynamic. The impact is significant. But, the result will determine the extent of our nation's federal campaign finance laws well into the 21<sup>st</sup> Century.