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BY EMAIL: PUBLICCOMMENT2023-14@FEC.GOV

Mr. Robert Knop, Associate General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20043

Re: Request for Public Comment on Improvements to Report Filing Process and Website Usability

Dear Mr. Knop:

On behalf of the Wiley Rein LLP Election Law and Government Ethics Practice Group, we submit these comments in response to the Commission's request for public comment noted above. Our practice group advises and prepares and files reports for numerous political committee clients. We submit these comments as practitioners and not on behalf of any particular client. Our comments below outline six recommendations that we believe would make filing easier for political committees and enhance transparency on the public record.

I. Replace FECFile.

First, we believe that the Commission should replace FECFile as soon as practicable with a more modern, user-friendly, web-based program. The Commission has released many updates to FECFile, but we are not aware of any major overhaul to FECFile within the last 20 years.

One of our greatest concerns with FECFile is the potential loss of data files. Currently, FECFile users save their data in a file with the extension .DCF on the computer that is used to draft and file the reports. When filing responsibilities change hands in an organization, it is often difficult for the new person to find the file. Creating a new file requires re-entering information from previous reports, downloading and importing information from previous reports, or a combination of the two.

In addition, FECFile is currently only compatible with Windows-based operating systems.

Switching to a web-based system would allow filers using other operating systems to easily access the filing system and the data files stored within it.

II. Allow more formatting in Miscellaneous Text Submissions/Form 99s and Memo Text.

The FEC's current systems do not allow formatting other than spaces and line breaks in Miscellaneous Text Submissions/Form 99s. Memo text is even more limited, as the system

does not allow line breaks. Allowing more formatting would make the information clearer for both the public record and the FEC analyst.

For example, when a client needs to make an audit adjustment, we advise them to investigate the cause of the discrepancy. Our communications with the client might include a chart breaking down the amount of the adjustment:

Unidentified discrepancies prior to 1/1/20	-\$12,938
Incoming receipts not reported 1/1/20-12/31/22	\$5,108
Bank fees not reported 1/1/20-12/31/22	-\$416
Total Adjustment	-\$8,246

However, if a client tried to include this information in memo text on the report disclosing the adjustment, the information would be much more difficult to understand:

FEC MISCELLANEOUS TEXT RELATED TO A REPORT, SCHEDULE OR ITEMIZATION

Form/Schedule: F3XN
Transaction ID :

Unidentified discrepancies prior to 1/1/20 -\$12,938 Incoming receipts not reported 1/1/20-12/31/22 \$5,108 Bank fees not reported 1/1/20-12/31/22 -\$416 Total Adjustment -\$8,336

III. Make error/warning messages easier to understand.

Prior to filing a report, the filing program validates the report, which checks for certain problems. The error and warning messages¹ that can result when validating a report are often very technical and difficult to understand. Although there are more detailed explanations on the Commission's website, it would be helpful to have clear, plain-language explanations with the error and warning messages themselves. This would allow filers to resolve the errors without having to search for additional information or calling their analyst.

For example, when a report is "closed," the filer selects a date that the filing software adds next to the Treasurer's signature on the report. The following error message appears if a filer validates a report without closing it:

ERROR Messages...

```
Form{Item}: F3XN
Field Name: #022 Treasurer's Signature Date
*Error* is Required, but field is Empty
```

If the Commission changed "but field is empty" to "close the report," that might eliminate some confusion.

¹ We understand that error messages must be resolved before a filer can submit a report, while warning messages do not prevent filing.

IV. Eliminate incorrect error/warning messages.

Filers often see error or warning messages that do not apply to the transaction at issue. For example, a filer that discloses a contribution to a PAC will see a warning message indicating that the election designation has not been provided:

```
WARNING Messages...

Form{Item}: SB23      {PAC TO THE FUTURE}
Field Name: #018 Election Type Code
Warning     Election Code missing: ?
```

Because election designations are not required for contributions to PACs, this warning message does not apply. The system should distinguish between recipients so that this message does not appear for contributions to PACs.

V. Tie campaign committee and candidate information together in the Commission's database.

The FEC could improve the process of copying information from the Commission's database to FECFile.² When a PAC reports an outgoing contribution, it must create an individual/organization record for the campaign, then create a separate individual/organization record for the candidate. For example, the campaign committee record for a contribution to Bob Casey's campaign would be "Bob Casey for Senate, Inc.," and the candidate record would be "Casey, Robert P. Jr." The information can be copied from the FEC's database or entered manually. The filer must then select an entity type (individual, candidate, campaign, PAC, party, other business entity, etc.).

The distinction between campaign committee and candidate causes significant confusion and results in many avoidable error messages. For example, if a filer pulls the information for Bob Casey for Senate, Inc., but selects the entity type "individual," the following error message appears:

```
Form{Item}: SB23      {BOB CASEY FOR SENATE INC}
Field Name: #009 Recipient First Name
*Error*     Conditionally Required field is Empty
```

If the campaign committee and candidate information could be pulled from the database simultaneously into the correct fields and entity types, the FEC would eliminate significant friction in the filing process. Pairing the candidate and campaign committees would also help filers ensure that they are disclosing the correct contribution recipient. The Commission could also consider including the candidate's next election year in the information that is copied from the database.

² We understand that at least some commercial software programs have methods for copying information from the FEC's database that are more straightforward.

VI. Make Reports Analysis Division (“RAD”) thresholds public.

We believe that making RAD’s thresholds for sending Requests for Additional Information (“RFAs”), referring matters to the Office of Alternative Dispute Resolution (“ADR”), and referring matters to the Office of the General Counsel (“OGC”) would be beneficial to the regulated community. Our clients—and filers in general—want to follow the Commission’s rules and requirements. More transparency around the thresholds would help encourage compliance.

We very much appreciate the opportunity to provide the Commission with these comments.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael E. Toner".

Michael E. Toner
Carol A. Laham
Karen E. Trainer