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**TO:** The Commission

**THROUGH:** James A. Pehrkon *JAP*  
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**SUBJECT:** Treasurer Policy – Substitute Section

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**AGENDA ITEM**  
**For Meeting of: 12-16-04**

**SUBMITTED LATE**

The Office of General Counsel is submitting a substitute section VII. for the Draft Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, designated as Agenda Document No. 04-115 for the Commission's December 16, 2004 meeting. The attached text is intended to replace the original text starting at page 15, line 10 continuing through page 16, line 10.

In addition, the following technical changes are required for Agenda Document No. 04-115.

At page 9, line 16, strike "(emphasis added)"  
At page 10, line 7, strike "(emphasis added)"

Attachment as stated.

1 VII. Conclusion

2  
3 Effective as of the date this Policy Statement is published in the Federal Register,  
4 and as more fully explained above, the Commission will consider treasurers of political  
5 committees subject to enforcement proceedings as follows:

- 6 1. In enforcement proceedings where a political committee is a respondent,  
7 the committee's current treasurer will be subject to Commission action "in  
8 (his or her) official capacity as treasurer."
- 9 2. In enforcement proceedings where information indicates that a treasurer  
10 (past or present) of a political committee (a) knowingly and willfully  
11 violated the Act or regulations, (b) recklessly failed to fulfill the duties  
12 imposed by a provision of the Act or regulations that applies specifically  
13 to treasurers, or (c) intentionally deprived himself or herself of the  
14 operative facts giving rise to a violation, the treasurer may be subject to  
15 Commission action "in (his or her) personal capacity."
- 16 3. In enforcement proceedings where information indicates that a treasurer of  
17 a political committee is subject to findings in both an official and personal  
18 capacity (*i.e.*, information indicates that the committee's current treasurer  
19 violated the Act or regulations with the requisite state of mind described in  
20 #2 above), the current treasurer may be subject to Commission action in  
21 *both* an official and personal capacity.
- 22 4. When the Commission makes findings as to a treasurer in his or her  
23 official capacity, successor treasurers will be substituted as if the findings  
24 had been made as to the successor.

1           5.     In enforcement proceedings involving provisions of the Act or regulations  
2                     that apply generally to individuals (e.g., prohibitions against the making of  
3                     an excessive contribution), the treasurer will be subject to Commission  
4                     action in his or her personal capacity the same as any other individuals.