

Candidate Brochure- Reporting 2013 Transactions

Introduction

The Nebraska Accountability and Disclosure Commission has prepared this informational brochure for use by candidates seeking nomination or election in the 2014 State of Nebraska Primary and General Elections. This brochure summarizes the obligations of all candidates for state, district, county, or other local office under the Nebraska Political Accountability and Disclosure Act (NPADA) (§§49-1401 et. seq., Nebraska Revised Statutes). This brochure is not for use by candidates for federal office. All candidates and committee treasurers should carefully review this brochure; candidates and their committee treasurers are responsible for compliance with the NPADA.

This brochure should only be used for filing the Annual Campaign Statement which is due on January 31, 2014. Subsequent reports will be subject to the new reporting requirements of LB 79.

EXPLANATION: Certain reporting provisions will change on January 1, 2014. This brochure should be used as a guide for reporting transactions occurring in 2013. Pursuant to LB 79 which was passed by the Legislature in 2013, certain reporting thresholds will change in 2014. A new brochure will be published in advance of 2014 which will include the new provisions.

All statements and reports filed by candidates, as well as by various political committees and other filers, are public records. They are available for public inspection at the office of the Commission during regular business hours, which are 8:00 a.m. to 5:00 p.m. Central Time, Monday through Friday (state holidays excluded). Certain reports and statements may be viewed at the Commission's website at <http://nadc.nol.org/ccdb/search.cgi>. Forms and publications may also be obtained from the Commission's website.

Anyone having questions regarding his or her obligations under the NPADA or encouraged to contact the Commission, either by mail at

Nebraska Accountability and Disclosure Commission
11th Floor, State Capitol Building
P.O. Box 95086
Lincoln, NE 68509

or by telephone at (402) 471-2522 during regular business hours or online at <http://nadc.nol.org/staff.html>.

The Commission welcomes comments and recommendations for changes and additions to future editions of this Candidate Brochure and to the reporting forms found in Section X.

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Table of Contents

<u>Section</u>		<u>Page</u>
I.	Statements of Financial Interests	3
II.	The Campaign Finance Limitation Act	3
III.	Organizational Requirements	3
IV.	Restrictions on Loans and Interest	5
V.	Campaign Reporting Requirements of Candidate Committees	6
VI.	Depository, Contributions and Record Keeping Requirements	9
VII.	Campaign Advertising Requirements	10
VIII.	Reporting Requirements of Others	11
IX.	Preliminary Calendar of Important Dates – 2014 Elections.....	13
X.	Reporting Forms and Commission Rule 8 Information	13

IMPORTANT NOTE

This brochure is only intended for candidates in the 2014 primary and general elections who have or will form a committee in 2013 and file an annual campaign statement on January 31, 2014.

SECTION I

Statements of Financial Interests

All candidates seeking any of the following offices in the 2014 elections must have on file a *Statement of Financial Interests* (NADC Form C-1) with their election official and with the Commission:

Member of the State Board of Education;

Member of the Board of Regents of the University of Nebraska;

Member of the Public Service Commission;

Member of the State Legislature;

Member of the Board of Directors of a Public Power District;

Any Elected County Official

Candidates who file for election or reelection during 2014 must file their *Statement of Financial Interests* for calendar year 2013 with their election official at the time of filing for office, and with the Commission within five days after filing for office.

SECTION II

The Campaign Finance Limitation Act

The Campaign Finance Limitation Act (CFLA) was repealed by the Legislature in 2013 following a decision by the Nebraska Supreme Court that the CFLA was unconstitutional. Accordingly, public campaign funds will not be available to candidates for the 2014 elections. See Laws 2013, LB 79.

SECTION III

Organizational Requirements

All candidates seeking elective office in the 2014 elections are subject to the campaign finance provisions of the Nebraska Political Accountability and Disclosure Act (NPADA).

A "candidate," as defined by the NPADA, is not limited to an individual who has filed for elective office. Any individual who receives a contribution or makes an expenditure, or gives consent for another to do so, with the intent of bringing about his or her nomination or election to an elective office is a "candidate," regardless of whether the specific office the individual will seek is known at

the time the contribution is received or the expenditure is made.

All candidates must keep records of contributions received and expenditures made. Under the NPADA, "contributions" are defined as money or anything of monetary value received by a candidate in support of his or her election. Contributions include the following:

- 1) The candidate's personal funds and/or property used for campaign purposes;
- 2) Loans received by the candidate for campaign purposes;
- 3) All funds, goods, and services received from others for campaign purposes; and
- 4) A pledge or promise of another to provide money or anything of ascertainable value for campaign purposes.

Under the NPADA, "expenditures" are defined as money or anything of monetary value paid by a candidate or with a candidate's knowledge in support of his or her election. A promise or pledge to pay is an expenditure made at the time the promise or pledge is made. **An unpaid campaign expense is considered an expenditure as of the date the obligation to pay is incurred even if payment is not yet due.**

A candidate committee is formed, by law, on the date a candidate first raises, receives, or spends \$5,000 or more during any calendar year in support of his or her election.

REMINDER: The candidate's personal funds and/or property used for campaign purposes are considered campaign contributions and campaign expenditures. A candidate who finances his or her campaign solely with personal funds and spends more than \$5,000 during any calendar year has, by law, formed a candidate committee.

Upon the formation of a candidate committee, the candidate must:

- Appoint a committee treasurer who is a qualified elector of the State of Nebraska. A candidate may serve as treasurer of his or her own committee. If there is no appointed treasurer, the candidate is the treasurer.
- Establish a separate account in a financial institution in Nebraska as an official depository of all contributions received by the candidate. All expenditures made by the candidate to support his or her election must be made from this account. Do not commingle these funds with any other funds.

Secondary accounts may also be established for the sole purpose of transferring funds to the official depository account. No expenditures may be made from any secondary account.

- File a *Statement of Organization of a Political Committee* (NADC Form A-1) with the Commission within ten days after the committee is formed by law (within ten days after reaching the \$5,000 threshold). **At the time of filing the committee must pay a filing fee of \$100.** The check or money order should be made payable

to the State of Nebraska. A Statement of Organization is not considered "filed" if it is not accompanied by the filing fee.

NOTE: Required filings which are not filed by the due date are subject to late filing fees!

SECTION IV

Restrictions on Loans and Interest

Loan Restrictions: Under the NPADA, there are limits on the amount of loans a candidate and his or her candidate committee may receive for campaign purposes. These limits apply to two separate and distinct time periods. The first period covers the candidate committee until thirty days after its formation. The second period covers the candidate committee starting thirty-one days after its formation.

LOAN LIMIT -- PERIOD 1: Prior to or during the first thirty days after its formation, a candidate committee shall not accept loans totaling more than \$15,000.

LOAN LIMIT -- PERIOD 2: Beginning with the thirty-first day after its formation, a candidate committee shall not accept loans totaling more than fifty percent of the contributions of money, excluding the proceeds of loans, which the candidate committee has received. This restriction continues until the end of the term of office for which the candidate sought election, regardless of whether the candidate is elected to office.

EXAMPLE (Period 1): Candidate A's candidate committee was formed by law on June 15, 2013. As of July 15, 2013 [the last day of Period 1], Candidate A's committee was limited to a total of \$15,000 in campaign loans accepted, regardless of the amount of contributions of money other than proceeds of loans received by Candidate A's committee. (Contributions received by a candidate committee have no effect on that committee's loan limit for Period 1).

EXAMPLE (Period 2): Candidate A's candidate committee was formed by law on June 15, 2013. As of August 15, 2013, Candidate A's committee had received a total of \$10,000 in contributions of money other than proceeds from loans. As of August 15, 2013, Candidate A's committee was limited to \$5,000 [50% of \$10,000] in campaign loans accepted on or after July 16, 2013 [the first day of Period 2], regardless of the amount of loans received by Candidate A's committee prior to July 16, 2013. (Loans received by a committee during Period 1 have no effect on that committee's loan limit for Period 2).

Interest Payment Restrictions: A candidate committee may not pay interest on a campaign loan it has received from the candidate, from a member of the candidate's immediate family, or from a business with which the candidate is associated.

The candidate's immediate family includes a child residing in the candidate's household, the candidate's spouse, or an individual claimed by the candidate or his/her spouse as a dependent for federal income tax purposes.

A "business" is defined as any corporation, partnership, limited liability company, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity, or entity. Non-profit entities are included in the definition of "business".

A business with which the candidate is associated includes a business in which the candidate is a partner, limited liability company member, director, or officer. A business with which the candidate is associated also includes a business in which the candidate or a member of the candidate's immediate family is a stockholder of:

- closed corporation stock with a fair market value of \$1,000 or more;
- closed corporation stock which represents more than a five percent equity interest;
- publicly traded stock with a fair market value of \$10,000 or more; or
- publicly traded stock which represents more than a ten percent equity interest.

SECTION V

Campaign Reporting Requirements of Candidate Committees

This section outlines campaign finance reports which candidate committees are required to file. These filings must be made with the Commission. Reporting forms are available from the Commission. Forms may also be downloaded from the Commission's website on to a personal computer. Reports may be completed on the personal computer. Once complete, a print copy of the completed report should be forwarded to the Commission. Forms may be downloaded from the Commission's website at <http://nadc.nol.org/cf/forms.html>. You may also access forms from our homepage (<http://nadc.nol.org>) by clicking on the link "Forms" appearing on the left side of the page.

Statement of Organization of a Political Committee (NADC Form A-1): The Statement of Organization registers a candidate committee with the Commission. A candidate committee must file its Statement of Organization within ten days after the committee is formed by law (within ten days after reaching \$5,000 of receipts or expenditures in a calendar year). A candidate committee's failure to file a required Statement of Organization is subject to late filing fees, and may also result in civil penalties. **At the time of filing the committee must submit a filing fee of \$100.** The check or money order should be made payable to State of Nebraska. **A Statement of Organization is not considered filed until both the statement and the filing fee have been received by the Commission.**

NOTE: The Commission considers a Statement of Organization to be a timely filing if it and the \$100 filing fee are either received in the Commission's office by 5:00 p.m. Central Time or postmarked by the U.S. Postal Service on or before its due date. Filings made by private delivery service, rather than the U.S. Postal Service, are considered filed when physically received at the Commission office. Any candidate committee which does not file its Statement of Organization in a timely manner is subject to late filing fees of \$25 per day for each day the statement remains not filed, not to exceed \$750 plus interest. In addition, any candidate committee's failure to file a

required Statement of Organization may result in civil penalties. State law makes the candidate personally liable for the payment of any late fees, civil penalties and interest, civil penalties and interest in the event that the committee does not make full payment.

Any changes to your information included in the Statement of Organization must be reported to the Commission. These changes are due by the next campaign statement filing due date and are also subject to late filing fees. These changes must be provided in writing, reported on an amended Statement of Organization, or reported on a *Campaign Statement*. **It is important that a candidate committee report any changes of the committee's address or treasurer.** This helps ensure that the committee receives important notices from the Commission.

Once formed, a candidate committee remains in existence until the committee is formally dissolved. Under the NPADA, a candidate committee remains in existence and subject to all filing requirements of the NPADA **unless and until** a *Statement of Dissolution of a Political Committee* (NADC Form A-2) is filed by the committee and accepted by the Commission.

Incumbent officeholders and candidates active in prior elections who are not sure whether their candidate committees are dissolved should contact the Commission. **A candidate committee which is inactive but not dissolved is subject to all filing requirements.**

Annual Campaign Statement (NADC Form B-1): Candidate committees of candidates seeking office in the 2014 elections must file *Campaign Statements*. A campaign statement is a public document which discloses who has made contributions to the candidate committee and the amount of contributions. Campaign statements also disclose expenditures made by the committee. Candidate committees formed in 2013 or earlier must file an annual campaign statement. The annual campaign statement is due on January 31, 2014. Reporting dates in connection with the primary and general elections will be provided in a subsequent brochure.

Period Covered by Annual Campaign Statement: The reporting period for the *Annual Campaign Statement* begins with the day after the closing date of the committee's previous *Campaign Statement* and ends on December 31, 2013. For candidate committees which are filing their first *Campaign Statement*, the reporting period begins with the date money was first raised, received, or expended.

Candidate committees which are formed by law after the closing date of one or more of the statements for an election must file the *Campaign Statement* next due and all subsequent filings for that election. **EXAMPLE:** Candidate B's candidate committee is formed by law on January 3, 2014. Because the committee was formed after the closing date of the annual campaign statement (December 31, 2013), the committee is not required to file the annual campaign statement due on January 31, 2014.

NOTE: The Commission considers a *Campaign Statement* to be a timely filing if it is received in the Commission's office by 5:00 p.m. Central Time or postmarked by the U.S. Postal Service on or before its due date. Filings made by private delivery service, rather than the U.S. Postal Service, are considered filed when physically received at the Commission office. Any candidate committee

which does not file a *Campaign Statement* in a timely manner is subject to late filing fees of \$25 per day for each day the statement remains not filed, not to exceed \$750 per statement plus interest. In addition, any candidate committee's failure to file a required *Campaign Statement* may result in civil penalties. **Important:** State law makes the candidate personally liable for any late fees, civil penalties and interest in the event that the committee does not make full payment.

Special Note to Committees Using the Services of Advertising Agencies or Reimbursing Others for Expenditures Incurred on Behalf of the Committee: An advertising agency (or other independent agent or contractor) shall not make any expenditure on behalf of a candidate committee unless the candidate committee reports the expenditure as if made directly by the committee, or unless the advertising agency (or agent or contractor) files an Agent's Expenditure Report (Form B-10). The advertising agency (or agent or contractor) must either provide the candidate committee with all the information the committee is required to report or file an Agent's Expenditure Report. Candidate committees should make sure that their advertising agencies (or agents or contractors) understand this requirement.

Likewise, reimbursements made to others for expenses incurred on behalf of the committee must include the name and address of the payee and the name and address of the actual provider of the goods or services.

Electronic Filing: Candidates may file campaign statements electronically. A candidate committee that wants to file campaign statements electronically should submit an application for electronic filing. This application can be downloaded from our website at <http://nadc.nol.org/cf/forms.html>. The application may be faxed or e-mailed. An original signed copy of the form must also be filed with the Commission.

Statement of Dissolution of a Political Committee (NADC Form A-2): Once formed, a candidate committee remains in existence until it is formally dissolved. Any candidate who does not win election to office may wish to dissolve his or her candidate committee. A candidate committee may dissolve if the committee:

- 1) Does not expect to receive additional contributions;
- 2) Has paid or resolved all of its outstanding debts and obligations; and
- 3) Has disposed of all unexpended funds and any other assets of the committee.

To begin the dissolution process, the candidate committee must file a Statement of Dissolution along with a final *Campaign Statement* which shows that the committee has no remaining obligations or assets. The candidate committee is not dissolved until its Statement of Dissolution is accepted by the Commission. The Commission will advise you by letter of its acceptance of the dissolution.

NOTE: An incumbent officeholder may not dissolve his or her candidate committee except under certain circumstances. Any incumbent officeholder who wishes to dissolve his or her candidate committee should contact the Commission for further information.

SECTION VI

Depository, Contributions and Record Keeping Requirements

Each candidate committee shall designate one account in a financial institution in Nebraska as the committee's official depository for the purpose of depositing all campaign contributions which it receives in the form of or converts to money, checks, or other negotiable instruments, and for the purpose of making all campaign expenditures. No expenditure shall be made by a candidate committee without the authorization of the committee's treasurer or assistant treasurer. Contributions received or expenditures made by a candidate or a candidate's agent shall be considered received or made by the candidate committee.

Contributions received by a candidate committee shall not be commingled with any funds of the candidate, the committee treasurer, an agent of either, or any other person.

Contributions of more than \$50 must be received by check, money order, credit card or other written instrument. Contributions of more than \$50 in currency cannot be accepted. Anonymous contributions cannot be retained. They must be donated to a tax-exempt charitable organization and a receipt must be obtained.

The treasurer of a candidate committee shall maintain detailed records and adequate supporting documentation of all contributions received by the committee. This includes cash contributions, in-kind contributions, pledged contributions, earmarked contributions (contributions received through a third party), and loans. **The treasurer must keep records of all committee receipts and all committee expenditures.**

Contributions received by the candidate or by an agent of either the candidate or the committee treasurer must be promptly reported to the committee treasurer.

IMPORTANT: Under the NPADA, **the date a candidate committee receives a contribution is the date that the contribution is received by the candidate, the committee treasurer, or an agent of either**, regardless of when the contribution is deposited into the committee's campaign account. Under the NPADA, the date on which a contribution is received is the date which must be used for reporting purposes. Under the NPADA, a pledged contribution is considered a contribution on the date the pledge is made.

The treasurer of a candidate committee should use the committee's records to help ensure that the committee does not exceed the loan limitations of the NPADA.

The treasurer of a candidate committee shall maintain detailed records and adequate supporting documentation of all expenditures made by the committee.

A candidate committee must maintain its records for a period of five years after the committee is formally dissolved.

For additional information concerning record keeping requirements of a candidate committee, please refer to the Candidate Committee Treasurer's Guide, a separate publication which is available from the Commission.

SECTION VII

Campaign Advertising Requirements

Identification of Campaign Advertising: Printed materials which refer to a candidate's campaign must contain the name and street address of the person or committee that paid for those materials. This identification is known as a disclaimer. If the person who paid for the materials acted at the direction of or received reimbursement from a candidate committee, the candidate committee is considered to have paid for the materials. The following is an example of a disclaimer for printed materials that complies with the law:

Paid for by the Sam Jones Election Committee
1234 North 12th Street
Anywhere, NE 68000

Television and radio advertisements must include the name of the person or committee who paid for the ads. The person's or committee's street address need not be included in the ad if the station(s) running the ad agree to keep the person's or committee's name and street address on file and available to the public for six months after the advertisement runs. If the person who paid for the advertisement acted at the direction of or received reimbursement from a candidate committee, the candidate committee is considered to have paid for the advertisement.

A message relating to a candidate or ballot question disseminated by any electronic means, including the internet or email shall include the name of the person making the expenditure. If the person sending the message acted at the direction of or received reimbursement from a candidate committee, the candidate committee is considered to have paid for the message.

A prerecorded message relating to a candidate or ballot question disseminated by any means of telecommunication shall include the name of the person or committee who paid for the message. The identification shall immediately precede the message. These calls can be made only between the hours of 8:00 a.m. and 9:00 p.m. at the location of the person receiving the message. A person or committee disseminating by any means of telecommunication a message not prerecorded relating to a candidate or ballot question shall disclose the name of the person or committee paying for the message upon the request of the recipient of the message. If the message is disseminated through an agent or employee of the person or committee making the expenditure for the message, the disclosure shall be of the identity of the person or committee making the expenditure.

NOTE: Nebraska State Law requires the registration of automatic dialing machines. For information on registration contact the Nebraska Public Service Commission at 1200 "N" Street, Suite 300, Lincoln, NE 68508. The telephone number is 402-471-3101 and the web address is www.psc.state.ne.us.

Any candidate who uses personal resources to pay for campaign advertising and does not have a candidate committee (has not exceeded \$5,000 of receipts or expenditures) is exempt from the requirements to identify campaign advertising. A candidate's exemption ends if and when that candidate forms a candidate committee by law.

Certain items which are printed or reproduced at the request of the candidate or committee are exempt from the identification requirements. Exempt items include windshield stickers, yard signs, bumper stickers, campaign buttons, balloons, billboards, and other items as specified in Commission Rule 8.

For further information regarding campaign advertising requirements, please refer to the copy of Commission Rule 8 which is included in this brochure.

SECTION VIII

Reporting Requirements of Others

Report of Political Contributions of a Corporation, Union or Other Association (NADC Form B-7): Any corporation, labor organization, or industry, trade, or professional association which is either organized under the laws of the State of Nebraska (including any corporation registered with the Nebraska Secretary of State's office) or does business within the State of Nebraska is required to report its political contributions to the Commission. Any contribution by one of these entities of more than \$250 is reportable. This includes any direct contribution (cash, pledge, or loan) to, in-kind contribution to, or independent expenditure on behalf of a candidate committee. **Note: These requirements will change on January 1, 2014.**

The contributor is responsible for filing this report. However, candidates should inform their contributors of this requirement and consider giving them a blank copy of NADC Form B-7. A contributor's failure to file this report as required is subject to late filing fees, and may also result in civil and/or criminal penalties.

Major Out-of-State Contribution Report (NADC Form B-9): Under the NPADA, a "major out-of-state contributor" is defined as a corporation, union, industry association, trade association, or professional association which is not organized under the laws of Nebraska and makes contributions or expenditures totaling more than \$10,000 during any calendar year. "Major out-of-state contributor" does not include: a person who files B-7 reports with the Commission; a committee registered with the Commission; or a committee registered with the Federal Election Commission. Any "major out-of-state contributor" is required to report its political contributions to the Commission. **Note: These requirements will change on January 1, 2014.**

The contributor is responsible for filing this report. However, candidates should inform their out-of-state contributors of this requirement and consider giving them a blank copy of NADC Form B-9. A contributor's failure to file this report as required is subject to severe late filing fees, and may also result in civil penalties.

Report of Earmarked Contribution (NADC Form B-3): Any person or committee who acts as an intermediary or agent for a contribution "earmarked" to a candidate committee is required to report the actual source of such a contribution to the Commission. Under the NPADA, a completed copy of this form must also be filed with the candidate committee when an "earmarked" contribution is made. **Note:** This report is required for any contribution amount, there is no threshold.

The intermediary or agent is responsible for filing this report. However, candidates should inform the intermediary or agent of this requirement. An intermediary's or agent's failure to file this report as required is subject to late filing fees, and may also result in civil and/or criminal penalties.

Report of Independent Expenditure (NADC Form B-6): Under the NPADA, an "independent expenditure" is defined as an expenditure to influence an election which is not a contribution to a committee and which is not made at the direction of, under the control of, or with the cooperation of another person. An independent expenditure supporting a candidate is an expenditure which is made by a person which is not at the direction of, under the control of, or with the cooperation of, the candidate, the candidate's committee, or the candidate's agents.

Committees [political party committees and PACs or separate segregated political funds] should report independent expenditures on their *Campaign Statements*. Corporations, labor organizations, and industry, trade, or professional associations should report independent expenditures on their *Reports of Political Contributions of a Corporation, Union or Other Association* (or on their Major Out-of-State Contribution Reports).

Any person, **other than** a committee, corporation, labor organization, or industry, trade, or professional association, who makes an independent expenditure of more than \$250.00 to support or oppose a candidate's election must report an independent expenditure on NADC Form B-6. **Note: These requirements will change on January 1, 2014.**

The person making the independent expenditure is responsible for filing this report. Any such person's failure to file this report as required is subject to late filing fees, and may also result in civil and/or criminal penalties.

Report of Late Independent Expenditures (NADC Form B-11): The NPADA defines a late independent expenditure as an independent expenditure of \$1,000 or more made by an independent committee (including a PAC) to support or oppose the nomination or election of a candidate. To qualify as a late independent expenditure, the expenditure must be made during the 14 day period immediately preceding the election. A Report of Late Independent Expenditure must be filed with the Commission within two days after the late independent expenditure is made. The committee making the independent expenditure is responsible for filing the report. Failure to timely file may result in late filing fees and civil penalties. **Note: These requirements will change on January 1, 2014.**

SECTION IX

PRELIMINARY CALENDAR OF IMPORTANT DATES – 2014 ELECTIONS

January 31, 2014 **All candidates** with committees as of December 31, 2013 –
Due date for the 2013 Annual *Campaign Statement* for the
period ending December 31, 2013

NOTE- The deadline for filing a candidate filing form to place your name on the ballot is prescribed by statute. Contact the Election Division of the Secretary of State or your local election official for applicable 2014 dates.

NOTE – **Candidates** for certain offices listed in Section I of this brochure must present a copy of their *Statement of Financial Interests* for the preceding calendar year to the filing official at the time they file to run for office.

May 13, 2014 Primary Election Day

November 4, 2014 General Election Day

SECTION X

Reporting Forms and Commission Rule 8

The following reporting forms are included in this brochure:

NADC Form C-1 -- *Statement of Financial Interests*;
NADC Form A-1 -- *Statement of Organization of a Political Committee*;
NADC Form B-1 -- *Campaign Statement (Candidate Committees)*;
NADC Form A-2 -- *Statement of Dissolution of a Political Committee*.
Electronic filing application form

Additional reporting forms are available from the office of the Commission. **Forms may be downloaded to your personal computer from the Commission's website at <http://nadc.nol.org/cf/forms.html>.** Once downloaded, you may complete the form on your personal computer and print it. The use of photocopied forms is acceptable. To access forms from the Commission's homepage (<http://nadc.nol.org>), click on the link "Forms" appearing on the left side of the page.

A copy of Commission Rule 8, Designation of Printed or Reproduced Items Exempt from Disclaimer Requirements and Rules and Regulations on the Size and Placement of Disclaimers is available on the Commission's website.