

Federal Election Commission

§ 116.5

made in the ordinary course of business.

§ 116.4 Forgiveness or settlement of debts owed to commercial vendors.

(a) *Unincorporated vendor.* A commercial vendor that is not a corporation may forgive or settle a debt incurred by a candidate, a political committee or another person on behalf of a candidate or political committee for less than the entire amount owed on the debt. The amount forgiven will not be considered a contribution by the commercial vendor to the candidate or political committee if—

(1) The amount forgiven is exempted from the definition of contribution in 11 CFR part 100, subpart C; or

(2) The commercial vendor has treated the debt in a commercially reasonable manner and the requirements of 11 CFR 116.7 or 116.8, as appropriate, are satisfied.

(b) *Incorporated vendor.* A corporation may not forgive or settle a debt incurred by a candidate, a political committee or another person on behalf of a candidate or political committee for less than the entire amount owed on the debt unless—

(1) The amount forgiven is exempted from the definition of contribution in 11 CFR part 100, subpart C; or

(2) The corporation has treated the debt in a commercially reasonable manner and the requirements of 11 CFR 116.7 or 116.8, as appropriate, are satisfied.

(c) *Reasonable efforts by a political committee.* A debt or obligation owed by a candidate or a political committee may be totally forgiven (*see* 11 CFR 116.8), or settled (*see* 11 CFR 116.7), provided that—

(1) The amount forgiven is exempted from the definition of contribution in 11 CFR part 100, subpart C; or

(2) The candidate and the political committee have undertaken all reasonable efforts to satisfy the outstanding debt and the requirements of 11 CFR 116.7 or 116.8, as appropriate, including the submission of the information specified in those sections and Commission review, are satisfied.

(d) *Commercially reasonable.* The Commission will determine that a debt settlement between a political committee

and a commercial vendor is commercially reasonable if—

(1) The initial extension of credit was made in accordance with 11 CFR 116.3;

(2) The candidate or political committee has undertaken all reasonable efforts to satisfy the outstanding debt. Such efforts may include, but are not limited to, the following—

(i) Engaging in fundraising efforts;

(ii) Reducing overhead and administrative costs; and

(iii) Liquidating assets; and

(3) The commercial vendor has pursued its remedies as vigorously as it would pursue its remedies against a nonpolitical debtor in similar circumstances. Such remedies may include, but are not limited to, the following—

(i) Oral and written requests for payment;

(ii) Withholding delivery of additional goods or services until overdue debts are satisfied;

(iii) Imposition of additional charges or penalties for late payment;

(iv) Referral of overdue debts to a commercial debt collection service; and

(v) Litigation.

(e) *Settlement or forgiveness not required.* The provisions of this part shall not be construed to require a commercial vendor to forgive or settle the debt for less than the entire amount owed.

(f) *Reporting.* The political committee shall continue to report the debt in accordance with 11 CFR 104.3(d) and 104.11 until the Commission has completed a review of the debt settlement plan pursuant to 11 CFR 116.7(f) or until the Commission has completed a review of the request to forgive the debt pursuant to 11 CFR 116.8, or until the political committee pays the debt, whichever occurs first.

[55 FR 26386, June 27, 1990, as amended at 67 FR 78682, Dec. 26, 2002]

§ 116.5 Advances by committee staff and other individuals.

(a) *Scope.* This section applies to individuals who are not acting as commercial vendors. Individuals who are acting as commercial vendors shall follow the requirements of 11 CFR 116.3 and 116.4.