



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

April 22, 2009

Sherrienne Standley, Treasurer
Indiana Democratic Congressional Victory
Committee
1 North Capitol, Suite 200
Indianapolis, IN 46204

Response Due Date:
May 22, 2009

Identification Number: C00108613

Reference: Amended October Monthly Report (9/01/08 - 9/30/08), received
12/04/08

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 10 items:

1. Schedule A supporting Line(s) 11(c) and 15 of your report discloses a receipt(s) from "Obama for America," "Andre Carson for Congress," "Donnelly for Congress Committee," "Ellsworth for Congress Committee," "Evan Bayh Committee," "Hoosiers for Hill," "Montagano for Congress," and "Nels Ackerson for Congress" which requires further clarification. For example, if this activity represents a transfer of funds, please indicate "transfer" on Schedule A supporting Line 11(c) of your report. If this activity represents a reimbursement for services provided to this committee, please indicate this on Schedule A supporting Line 15 of your report. Please amend your report to clarify the type of activity this receipt(s) represents.

2. Schedule B supporting Line 21(b) of your report discloses a payment(s) totaling \$16,596.46 for "Audio Equip," "In-Kind Print Advertising," "Mail Production," and "Printing." Expenditures and disbursements for public communications (as defined under 11 CFR §100.26) that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any candidate for Federal office, meet the definition of Federal

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Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s).

Further, public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate, rather than on Schedule B for Line 30(b). Please clarify if this activity meets the definition of Federal Election Activity or if it contains express advocacy and amend your report to properly disclose this activity, if necessary.

3. Schedule B supporting Line 30(b) of your report discloses a payment(s) for "Campaign Literature-Posters" and "Literature" which appears to meet the definition of Federal Election Activity ("FEA") and may also meet the conditions of exempt party activity as defined under 11 CFR §§100.80, 100.87, 100.89 and 11 CFR §§100.140, 100.147 and 100.149.

If this apparent exempt activity represents Get-out-the-vote activity conducted in connection with an election in which one or more candidates for Federal office appear on the ballot, it is considered to be Federal Election Activity. If this apparent exempt activity represents Voter Registration activity during the period that begins on the date that is 120 calendar days before the date that a regularly scheduled Federal election is held and ends on the date of the election, it is considered to be Federal Election Activity. 11 CFR §100.24

If this apparent exempt activity is a public communication(s) (as defined under 11 CFR §100.26) that refers to a clearly identified candidate for Federal office and promotes, supports, attacks or opposes any candidate for Federal office, it meets the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s).

Further, public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate, rather than on Schedule B for Line 30(b).

Please amend your report to clarify if the activity disclosed meets the

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conditions of exempt party activity and also if it meets the definition of Federal Election Activity. If the activity does not meet the conditions of exempt party activity, please clarify if it contains express advocacy. In addition, please properly disclose this activity if necessary.

4. Schedule B supporting Line 30(b) of your report discloses a payment(s) for "Paid ID Calls" which is categorized as Federal Election Activity and therefore, may require the disclosure of the candidate(s) this activity should be attributed to. Expenditures and disbursements for public communications that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any candidate for Federal office, meet the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s).

Further, please be advised that public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate rather than on Schedule B for Line 30(b). Please clarify if this activity meets the definition of Federal Election Activity or if it contains express advocacy and amend your report to properly disclose this activity, if necessary.

5. Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule(s) B of your report to clarify the following description(s): "Voter Registration," "Voter registration event," and "Voter Registration FEA." For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

6. Schedule H2 indicates the allocation ratio for "Conradopen" was revised during the reporting period. Please provide the date of the fundraising program or event. In the case of a telemarketing or direct mail campaign, the "date" is the last day of the telemarketing campaign, or the day on which the final direct mail solicitations are mailed. 11 CFR §§106.6(d)(2) and 106.7(d)(4)(ii) In the event that an excessive non-federal transfer was received, the excessive amount should be transferred back to your non-federal account.

7. Schedule H2 of your report indicates that your committee participated in "Conradopen" activities or events during the reporting period. However,

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there are no corresponding disbursements reflected on your Schedule H4. Note that you need not include activities on Schedule H2 if there are no corresponding payments made for the activity during the reporting period. If any disbursements were incorrectly reported, you should file an amended Schedule H4 with the correct activity or event identifier, or provide clarifying information regarding the activities on Schedule H2.

8. The Detailed Summary Page, on Line 18(a) Column A of your Amended August Monthly (7/01/08 – 7/31/08), received 12/04/08, Amended September Monthly (8/01/08 – 8/31/08), received 12/04/08, and Amended October Monthly (9/01/08 – 9/30/08), received 12/04/08 Reports combined, disclose \$154,796.80 in transfers from the non-federal account for allocated activity for the reporting period. However, Line 21 (a)(ii) Column A discloses \$130,553.01 as the non-federal share for allocated activity for the reporting period. While the non-federal account is permitted to transfer funds to the federal account for allocated activity, transfers for allocated activity must be made within a 70-day time period: no more than 10 days before or 60 days after the payment to the vendor. 11 CFR §§106.6(e)(2) and 106.7(f)(2) Please clarify the nature of the transfers-in from the non-federal account.

The Commission recommends that you immediately transfer back to the non-federal account, the total excessive amount which was received by your federal account outside the 70-day time period. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

9. Schedule H3 of your Amended August Monthly (7/01/08 – 7/31/08), received 12/04/08, Amended September Monthly (8/01/08 – 8/31/08), received 12/04/08, and Amended October Monthly (9/01/08 – 9/30/08), received 12/04/08 Reports combined disclose a transfer(s)-in from a non-federal account(s) for “StateJJ” which appears to exceed the permissible amount(s) indicated by your allocation ratio for this activity/event. Please be advised that transfers for allocated activity must not exceed the non-federal share of the joint disbursements and that these transfers must be made within a 70-day time period: no more than 10 days before or 60 days after payment to the vendor. 11 CFR §§106.6(e)(2) and 106.7(f)(2) Please clarify the nature of this transfer(s)-in from the non-federal account.

The Commission recommends that you immediately transfer the total excessive amount received by your federal account back to your non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

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10. Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "401k," "Health Insurance," "Life Insurance," "Payroll," and "Payroll Taxes." Please be advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity (FEA) or activities in connection with a Federal election must not be allocated between or among federal and non-federal accounts. Rather, only federal funds may be used. Further, the Commission concluded in Advisory Opinion 2003-11 that amounts spent for employee-specific "fringe benefits," consisting of health insurance, disability insurance, life insurance, retirement benefits and payroll taxes, fall into the category of compensated time.

Please clarify whether this activity is for employees who spent 25% or less of their time during the month(s) referenced above on FEA or activities in connection with a Federal election. If this is not the case, any reimbursement from your committee's non-federal account for this payment is not permissible and must be returned. Although the Commission may take further legal action regarding any improper allocation activity, your prompt action will be taken into consideration.

Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1394.

Sincerely,



Marlene R. Daughtrey
Senior Campaign Finance Analyst
Reports Analysis Division

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