



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

March 4, 2009

Jan Churchill, Treasurer
Nevada State Democratic Party
409 Horn Street
Las Vegas, NV 89107

Response Due Date:
April 3, 2009

Identification Number: C00208991

Reference: Amended Year End Report (11/25/08-12/31/08), received 2/10/09

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 4 items:

1. The Detailed Summary Page, on Line 18(a) Column A of your Amended 12-Day Pre-General Report (10/1/08-10/15/08), received 12/8/08, Amended 30-Day Post-General Report (10/16/08-11/24/08), received 2/6/09 and Amended Year End Report (11/25/08-12/31/08), received 2/10/09 combined, discloses \$263,474.00 in transfers from the non-federal account for allocated activity for the reporting period. However, Line 21 (a)(ii) Column A discloses \$231,919.42 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.

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2. Your 2008 reports disclose memo Schedule A's totaling \$152,677.23 for "Committee For Change", which appears to be your committee's share of the gross contributions received from a joint fundraising committee. However, there are no corresponding transfers-in from the related joint fundraising committee disclosed on Schedule A supporting Line 12 of the Detailed Summary Page. Please amend your report(s) to clarify this apparent discrepancy.

3. Schedule B supporting Line 30(b) of your report discloses a payment(s) for "Early vote phone 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.

4. Schedule H4 of your report discloses an apparent disbursement(s) to "NDP Non-Federal CC". Further, your report indicates that this disbursement represents the nonfederal portion of a refund(s) or rebate(s) of a previously allocated expense. Please be advised that contributions and transfers to federal committees and/or non-federal committees/organizations do not qualify as shared expenses to be allocated between your federal and non-federal accounts.

Please be advised that the federal account must transfer the non-federal portion of refund(s) or rebate(s) of allocated expenses to the non-federal account using one of two methods. The method of reporting described in Advisory Opinion 1995-22 allows a committee to itemize the refund or rebate as a negative entry on Schedule H4. Alternatively, a committee may disclose the receipt of the refund or rebate into the federal account on Schedule A supporting Line 15, and the transfer of the non-federal

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account's share to the non-federal account as a **100% federal disbursement on Schedule H4**. Please refer to the enclosed sample of properly reported refunds and rebates of allocable activity and amend your report as appropriate.

Any reimbursement from your committee's non-federal account for any portion of this activity is not permissible. 11 CFR §102.5(a)(1)(i) The Commission recommends that you immediately transfer the funds received by your federal account, as reimbursement for the non-federal portion, 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.

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) 694-1141.

Sincerely,

Daniel T. Buckley
Senior Campaign Finance Analyst
Reports Analysis Division

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SAMPLE

Allocating Certain Federal and Nonfederal Expenses

ALLOCATION OF REBATE (H4) (METHOD 1)

SCHEDULE H4 (FEC Form 3X) DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE		PAGE	OF
		FOR LINE 21a OF FORM 3X	
NAME OF COMMITTEE (In Full) Freedom Party State Committee			
A. Full Name (Last, First, Middle Initial) Acme Office Supplies		Allocated Activity or Event: <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Fundraising <input type="checkbox"/> Exempt <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support	
Mailing Address 111 Paddenpencil St.		Allocated Activity or Event Year-To-Date 6,600.00	
City State Zip Code City ST 00000		Date 03 15 2008	
Purpose of Disbursement: Rebate		Category/Type 001	
Activity or Event Identifier			
FEDERAL SHARE	+	NON-FEDERAL SHARE	= TOTAL AMOUNT
-144.00		-256.00	-400.00

RECEIPT OF REBATE (A/LINE 15) (METHOD 2)

SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS		FOR LINE NUMBER (check only one)	PAGE	OF
Use separate schedule(s) for each category of the Detailed Summary Page		11a 13	11b 14	11c 15
Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.				
NAME OF COMMITTEE (In Full) Freedom Party State Committee				
A. Full Name (Last, First, Middle Initial) Acme Office Supplies		Date of Receipt 03 15 2008		
Mailing Address 111 Paddenpencil St.		Amount of Each Receipt This Period 400.00		
City State Zip Code City ST 00000		Rebate.		
FEC ID number of contributing federal political committee C:				
Name of Employer Occupation				
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date 400.00		

NONFEDERAL TRANSFER (H4) (METHOD 2)

SCHEDULE H4 (FEC Form 3X) DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE		PAGE	OF
		FOR LINE 21a OF FORM 3X	
NAME OF COMMITTEE (In Full) Freedom Party State Committee			
A. Full Name (Last, First, Middle Initial) Freedom Party State Committee Nonfederal Account		Allocated Activity or Event: <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Fundraising <input type="checkbox"/> Exempt <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support	
Mailing Address 123 Washington St.		Allocated Activity or Event Year-To-Date	
City State Zip Code City ST 00000		Date 03 15 2008	
Purpose of Disbursement: Transfer of Nonfederal Share of Rebate		Category/Type 001	
Activity or Event Identifier (See Schedule A)			
FEDERAL SHARE	+	NON-FEDERAL SHARE	= TOTAL AMOUNT
256.00		0.00	256.00

9. Refunds and Rebates of Allocable Expenses

If a committee receives a refund or a rebate of an allocable expense, the refund or rebate must be deposited in the federal or allocation account. The refund or rebate must then be allocated between the federal and nonfederal accounts according to the same allocation ratio used to allocate the original disbursement. The federal account must transfer the nonfederal portion to the nonfederal account.

Example

A committee receives a \$400 rebate on office equipment from the Acme Office Store. The original purchase was an administrative expense allocated according to the following ratio: 36 percent federal; 64 percent nonfederal.

Reporting Method 1 illustrates how this rebate would be reported according to the method approved in Advisory Opinion (AO) 1995-22.¹ Reporting Method 2 shows how the rebate would be reported under an alternative method.

Reporting Method 1

Using the method of reporting described in AO 1995-22, the committee discloses the receipt of the rebate and the federal and nonfederal shares on Schedule H4. The amounts are negative entries subtracted from total shared federal and nonfederal disbursements

for the reporting period (disclosed on Lines 21a(i) and (ii) of the Detailed Summary Page).

¹ Although AO 1995-22 is no longer applicable to national party committees as of 2002, it may still apply to state, district and local party committees.

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