



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

RQ-3

November 27, 1998

Harold E. Mesirov, Treasurer
Robins, Kaplan, Miller & Ciresi PAC
1801 K Street, NW, Suite 1200
Washington, DC 20006

Identification Number: C00275909

Reference: April Quarterly (1/1/98-3/31/98), July Quarterly (4/1/98-6/30/98) and October Quarterly (7/1/98-9/30/98) Reports

Dear Mr. Mesirov:

On November 4, 1998, you were notified that a review of the above-referenced report(s) raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act.

Your November 19, 1998, response is incomplete because you have not provided all the requested information. For this response to be considered adequate, the following information is still required.

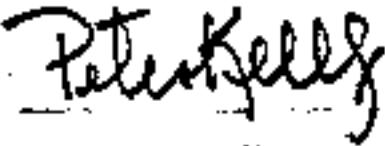
-The Commission acknowledges that you will amend the above-referenced reports to correctly report the following: (a) contributions received from the individual partners (which you state are "attributable to the partners' capital accounts," not the "general firm partnership accounts") rather than from the partnership itself and (b) in-kind contributions received from the sponsoring organization (the partnership) to cover administrative expenses. To assist you when preparing these amendments, enclosed are copies of pages from the Campaign Guide for Nonconnected Committees.

If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Donald

Averett on our toll-free number (800) 424-9530 or our local number (202) 694-1130.

Sincerely,


for John D. Gibson
Assistant Staff Director
Reports Analysis Division

224

Enclosures

In-Kind Contributions

When determining whether to itemize an *in-kind contribution*, follow the same guidelines listed under "When to Itemize Receipts," page 24. See page 10 for information on how to determine the dollar value of an *in-kind contribution*.

In addition, add the value of the *in-kind contribution* to the *operating expenditures total* on Line 21(b) (in order to avoid inflating the cash-on-hand amount). 104.13(a)(2).

If the *in-kind contribution* must be itemized on Schedule A, then it must also be itemized on a Schedule B for operating expenditures. See the illustration at right.¹

Appreciated Goods

When a committee receives an *in-kind contribution* whose value may appreciate over time, such as stock or artwork, special reporting rules apply:

- Itemize the initial gift, if necessary, as a *memo entry* on Schedule A (see "When to Itemize Receipts," page 24). Under "Amount," report the fair market value of the contribution on the date the item was received. Do not include that amount in the total for Line 11(a)(i) on the Detailed Summary Page.
- Once the item is sold, report the sale price as a contribution on Line 11(a)(i) if the purchaser is known or as an "other receipt" on Line 15 if the purchaser is unknown. Itemize the transaction on Schedule A if necessary. 104.13(b). See also AD 1999-6.

IN-KIND CONTRIBUTIONS

SCHEDULE A ITEMIZED RECEIPTS		Use separate spreadsheet for each category of the Detailed Summary Page	PAGE	OF
Contributions from Individuals			FOR LINE NUMBER	11(a)(i)
Any information reported on such Reports and Statements may not be used by any person for the purpose of soliciting contributions or for campaign purposes, other than using the name and address of any political committee to solicit contributions from such committee.				
NAME OF COMMITTEE (in full)				
Fund for a Better Government				
A. Full Name, Mailing Address and ZIP Code		Name of Donor	Date Rec'd, MM/DD/YY	Amount of Cash Received for Purpose
Martin L. Kross 4 River Road City, State ZIP		National Organization for a Better Gov't	8/10/94	\$3,000.00 (In-kind value price)
<input type="checkbox"/> Received for: <input type="checkbox"/> Cash Receipt		<input type="checkbox"/> Primary <input type="checkbox"/> Other Receipt	Approved for entry: > \$3,000.00	

SCHEDULE B ITEMIZED DISBURSEMENTS		Use separate spreadsheet for each category of the Detailed Summary Page	PAGE	OF
Operating Expenditures/Other Federal			FOR LINE NUMBER	21(b)
Any information reported on such Reports and Statements may not be used by any person for the purpose of soliciting contributions or for campaign purposes, other than using the name and address of any political committee to solicit contributions from such committee.				
NAME OF COMMITTEE (in full)				
Fund for a Better Government				
A. Full Name, Mailing Address and ZIP Code		Purpose of Disbursement	Date Rec'd, MM/DD/YY	Amount of Cash Disbursement for Purpose
Martin L. Kross (contributor) 4 River Road City, State ZIP		Operating Expenditures	8/10/94	\$3,000.00 (In-kind)
<input type="checkbox"/> Primary <input type="checkbox"/> Other Receipt		Approved for entry: > \$3,000.00		

Itemize *in-kind contributions* on both Schedules A and B so as not to inflate the cash-on-hand amount.

7. Committees maintaining separate accounts for federal and nonfederal activity may have to allocate under these circumstances. See Chapter 10 for more information.

TWO

APPENDICES

A. Support from Sponsoring Organization

1. Contributions

As explained on page 3, a *nonconnected committee* may be sponsored by a partnership or another type of unincorporated association. However, most forms of support received by a committee from such an organization are *contributions*, subject to limits, prohibitions and disclosure.

Regardless of whether the committee uses the sponsoring organization's contributions to pay for its operating expenses or to support candidates, monetary and in-kind contributions from the sponsoring organization are subject to an aggregate limit of \$5,000 per calendar year. See Chapter 4 for more information about contribution limits and Chapter 9 for reporting instructions.

Gifts of Money

The sponsoring organization may contribute *permissible funds* directly to a nonconnected committee for any lawful purpose.

In-Kind Contributions

A sponsoring organization makes an *in-kind contribution* to a nonconnected committee when it:

- Pays a vendor for the committee's supplies, rent, telephone bills, postage, printing, etc.;
- Provides goods or services to the committee at its own expense, such as a payroll deduction system to collect contributions; or
- Pays the salary of an individual when he or she is working on committee business. (See the exception for certain

legal and accounting services, discussed below.)

In-kind contributions from the sponsoring organization must be paid for with permissible funds and are subject to the same \$5,000 annual limit as the committee's direct gifts of money. See page 10 for information on how to determine the value of an in-kind contribution. See also page 26 for information on how the committee should report in-kind contributions.

Loans

A sponsoring organization may loan money to a nonconnected committee. Loans are contributions, and the outstanding balance on the principal amount is subject to the \$5,000 calendar year limit. A loan exceeding that amount is illegal even if repaid in full. The committee must itemize a loan on Schedule C on the first report filed after the loan is made and continue to report the outstanding balance and any payments until the debt is extinguished, 100.7(a)(1)(i). See "Loans" on page 10 for more information.

2. Sponsors Affiliated with Corporations

When a *political committee* is sponsored by a noncorporate entity that is entirely owned by one or more corporations (such as a joint venture partnership) and affiliated with at least one of the corporations, the rules generally applicable to *nonconnected committees* do not apply, as explained below. Such a committee should also consult the FEC's *Campaign Guide for Corporations and Labor Organizations* for more information.

Exempt Administrative and Fundraising Payments

In *Advisory Opinion 1992-17*, the Commission found that a political committee sponsored by a joint venture partnership was *affiliated* with the *separate segregated funds* of the partnership's two corporate partners. Because of that affili-

ation, the partners could pay the administrative and fundraising expenses of the partnership's political committee without those payments being considered contributions. Moreover, payment of those expenses by the partnership itself also did not constitute a contribution to the sponsored committee. See also AOs 1994-11 and 1994-9.

Solicitation Restrictions

In AO 1989-8, the Commission ruled that because a partnership was *affiliated* with a corporation, the *political committees* sponsored by both the partnership and the corporation were *affiliated*. Consequently, the partnership's committee could solicit only the restricted classes of the partnership, the corporation and the corporation's subsidiaries, branches and affiliates. The committee could not solicit the general public. See also AOs 1987-34 and 1983-4B (reconsidered).

3. Legal and Accounting Services

A sponsoring organization may provide free legal and accounting services to a nonconnected committee if the services are provided solely to help the committee comply with federal campaign finance laws and if the individuals performing the services are regular employees of the organization. Unlike other services rendered to a committee, the cost of providing such services is not a contribution and does not count against the \$5,000 limit. However, the committee must report the receipt of the services; see page 13.

B. Partnership Contributions

Outlined below are special rules concerning contributions from partnerships to nonconnected committees.

1. Contribution Limits

Contributions Made by Partnership

A partnership may make monetary or in-kind contributions aggregating up to \$5,000 per calendar year to a nonconnected committee.¹ In addition, a contribution from a partnership counts proportionately against each participating partner's own limit with respect to the same committee. 110.1(f) and (g).

Contributions Made by Individual Partners

Each partner may make monetary or in-kind contributions aggregating up to \$5,000 per calendar year to a nonconnected committee. 110.1(d). Although contributions made by the partnership as a whole count proportionately against each partner's \$5,000 limit, contributions made by individual partners from their own funds do not count against the partnership's limit. 110.1(e).

2. Attribution Among Partners

Formula

A portion of the partnership contribution must be attributed to each contributing partner. If all partners within the organization are contributing, the partnership may attribute the contribution according to each partner's share of the firm's profits. However, if the partnership attributes a contribution on another basis agreed to by the partners, or if it attributes contributions only to certain partners, the following rules must be observed:

1. A partnership may make contributions to other political committees—including candidate committees and party committees—subject to applicable limits. See the "Contribution Limits" chart on page 17.

- The contributing partners' profits must be reduced (or their losses increased) by the amount of the contribution attributed to them; and
- The profits (or losses) of only the contributing partners must be affected.

Whatever the attribution, the portion attributed to each partner must not exceed the individual partner's contribution limit. 110.1(e).

Notice to Recipient Committee

Because a contribution from a partnership is a joint contribution, the partnership must provide to the recipient committee, along with the contribution, a written notice listing the names of the contributing partners and the amount to be attributed to each (unless the contribution is attributed equally among the listed partners). However, unlike other joint contributions, the signature of each contributing partner is not required. 110.1(k)(1) and (2).



3. Prohibited Partnership Contributions

Partnerships with Corporate Members

Because contributions from corporations are prohibited, a partnership with corporate members may not attribute any portion of a contribution to the corporate partners.² 110.1(e) and 114.2.

Partnerships with Foreign National Members

Because contributions from foreign nationals are prohibited, a partnership may not attribute any portion of a contribution to a partner who is a foreign national. 110.4(a).

Partnerships with Federal Government Contracts

A partnership which is negotiating a contract with the federal government or which has not completed performance of such a contract is prohibited from making contributions. However, an individual partner in such a firm may make contributions from personal funds (rather than from funds drawn on the partnership's account). 115.4. See also AO 1991-1.

2. Partnerships that reorganize as corporations are subject to FEC rules that apply to corporations. See the Campaign Guide for Corporations and Labor Organizations.

4. Reporting Partnership Contributions

PARTNERSHIP CONTRIBUTIONS

Included in Total Figure

Partnership contributions are included in the total figure reported for "contributions from individuals" persons other than political committees" on the Detailed Summary Page of Form 3X.

Itemization

If a partnership contribution exceeds \$200 or aggregates over \$200 during a calendar year, the committee must itemize the contribution on a Schedule A used for "Contributions from Individuals/Persons Other Than Political Committees" (Line 11a(i)).

Additionally, if an individual partner's share of the contribution exceeds \$200 when combined with other contributions received from that partner in the same calendar year, the committee must disclose, as a memo entry, itemized information on the partner (name, address, occupation, date contribution received, partner's share of contribution and aggregate year-to-date total of contributions made by that partner), 404.8 and 410.1(e).

In-Kind Contributions

A committee reports the value of an in-kind contribution from a partnership in the same way it reports a monetary contribution. In addition, as with all in-kind contributions, the committee must report the value of the in-kind contribution as an operating expenditure. Moreover, an in-kind contribution itemized on Schedule A must also be itemized on a Schedule B for operating expenditures, 104.13 and 110.1(e). However, any information about a partner itemized as a memo entry on Schedule A does not have to be reported on Schedule B. See page 26.

SCHEDULE A ITEMIZED RECEIPTS		Use separate schedule for each category of the Detailed Summary Page	PAGE 1 OF
Contributions from Individuals			FOR LINE NUMBER 11a(i)
Any information covered by this Report and Schedule must not be held in secret by the donor for the purpose of soliciting contributions or for campaign purposes, other than for the name and address of any donor who contributes to such contributions from 404.8(b)(1).			
NAME OF COMMITTEE OR FIRM Paid for a Better Government			
A. Full Name, Mailing Address and ZIP Code Mawner, Worthington & Smith 488 Darrow Street City, State ZIP	Name of Donor partnership	Date (month, day, year) 6/4/84	Amount of Each Receipt or Total \$750.00
Reason for: <input type="checkbox"/> Other activity <input type="checkbox"/> Primary <input type="checkbox"/> General	Occupation Accountant	Aggregate Year-to-Date \$750.00	Amount of Each Receipt or Total MEMO
B. Full Name, Mailing Address and ZIP Code Inez Martinez 81 Landau Street City, State ZIP	Name of Donor above	Date (month, day, year)	Amount of Each Receipt or Total \$250.00
Reason for: <input type="checkbox"/> Other activity <input type="checkbox"/> Primary <input type="checkbox"/> General	Occupation Accountant	Aggregate Year-to-Date \$250.00	Amount of Each Receipt or Total MEMO
C. Full Name, Mailing Address and ZIP Code Austin Worthington 325 Carriage Circle City, State ZIP	Name of Donor above	Date (month, day, year)	Amount of Each Receipt or Total \$250.00
Reason for: <input type="checkbox"/> Other activity <input type="checkbox"/> Primary <input type="checkbox"/> General	Occupation Accountant	Aggregate Year-to-Date \$250.00	Amount of Each Receipt or Total MEMO
D. Full Name, Mailing Address and ZIP Code David J. Smith 27 Second Street City, State ZIP	Name of Donor above	Date (month, day, year)	Amount of Each Receipt or Total \$250.00
Reason for: <input type="checkbox"/> Other activity <input type="checkbox"/> Primary <input type="checkbox"/> General	Occupation Accountant	Aggregate Year-to-Date \$250.00	Amount of Each Receipt or Total MEMO

5. Partnership Contribution Plans

In several advisory opinions, the Commission has said that a partnership may set up an internal plan to facilitate contributions from individual partners or the partnership as a whole to candidates or political committees (other than a nonconnected committee sponsored by the firm). In several advisory opinions, the Commission has said that incidental expenses incurred to administer such plans do not trigger a requirement, on the part of the firm, to register as a political committee. See AOs 1984-18, 1982-13, 1981-50 and 1980-72 for more information.