



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

June 26, 2009

Richard Westfall, Treasurer
Colorado Republican Federal Campaign
Committee
5950 S. Willow Dr. #220
Greenwood Village, CO 80111

Response Due Date:
July 27, 2009

Identification Number: C00033134

Reference: Amended 30 Day Post-General Report (10/16/08 – 11/24/08), received
1/8/09

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 5 items:

1. 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): "Old debt exempt materials." For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).
2. Schedule B supporting Line 21(b) of your report discloses a payment(s) totaling \$10,742.14 for "Printing - old debt." 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 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

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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 "FEA GOTV mailer and postage," "FEA GOTV mailer," "FEA Walking literature," "FEA GOTV mailers," and "Postage for GOTV mailer," 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. You have made disbursements for "FEA door hangers" and "FEA T-shirts" which you have characterized as exempt activities. In order for an activity to be classified as exempt, it must meet the following conditions: (1) For slate cards and sample ballots: it names at least three candidates running for election to any public office, it is not distributed through public political advertising (including broadcast media, newspapers, magazines, and billboards), the content is limited to the identification of each candidate, the office or position currently held, the office sought and party affiliation, and the costs allocable to federal candidates are paid with permissible funds; (2) For campaign materials: the activity is conducted on behalf of the party's nominees in the general election, the materials are distributed by volunteers—not through public political advertising, the party committee does not use materials purchased by the national party committee or money transferred from the national committee to purchase materials, the party committee does not use funds designated for a

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particular federal candidate, a payment from a non-federal campaign to help pay for the materials does not exceed its allocated share of the expenses, and the costs allocable to federal candidates are paid with permissible funds; (3) For voter drives: the activity is on behalf of the party's Presidential and Vice Presidential nominees, the activity does not involve the use of public political advertising such as television, radio, newspapers, magazines, billboards or direct mail, phone banks are operated by volunteers (although paid professionals may design the system, develop calling instructions and train supervisors), the party committee does not use funds transferred by the national party committee for voter drive activities, the party committee does not use funds designated for a particular federal candidate, and the cost allocable to federal candidates are paid with permissible funds. 11 CFR §§100.80, 100.87, 100.89 and 11 CFR §§100.140, 100.147 and 100.149

If the activity disclosed on your report does not meet the definition of "exempt" activity as described above, any portion of the expenditures made on behalf of specifically identified candidates must be disclosed on Schedule B, E or F supporting Line 23 or 30(b), 24 or 25 of the Detailed Summary Page as appropriate. Please provide the Commission with a more detailed explanation of these activities.

5. Schedule A supporting Line 12 discloses a transfer(s)-in from the Republican National Committee. Schedule(s) B supporting Line 30(b) reflects payments for "FEA door hangers" and "FEA T-shirts." Please be advised that a state or local party committee may pay for campaign materials (such as bumper stickers, pins and yard signs) that are distributed by volunteers in connection with activity on behalf of the party's nominees in a general election and voter drive activity on behalf of the party's Presidential and Vice Presidential nominees. Payments for this type of activity are exempt from the definition of a contribution or expenditure if certain conditions are met. The conditions are that no public advertising may be used, including distribution by direct mail (mailings by a commercial vendor or from commercial lists); all funds used for the activity must be permitted under the Act; none of the funds used may have been designated for a particular candidate; and finally, payments for the activity may not be made from transfers-in from the national committee to specifically fund the activity. For further guidance, please refer to 11 CFR §§100.87 and 100.147 and to the Campaign Guide for Party Committees.

Please clarify the nature of the transfer(s)-in and subsequent payments for the aforementioned disbursement(s). If the activity disclosed on your report does not meet the definition of "exempt" activity as described above, any portion of the expenditures made on behalf of specifically identified

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candidates must be disclosed on Schedule B, E or F supporting Line 23 or 30(b), 24 or 25 of the Detailed Summary Page as appropriate.

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) 694-1159.

Sincerely,



Allen Norfleet
Campaign Finance Analyst
Reports Analysis Division