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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 3, 2005

J.B. Poersch, Treasurer
Democratic Senatorial Campaign Committee
120 Maryland Avenue, NE
Washington, DC 20002

Response Due Date:
July 5, 2005

Identification Number: C00042366

Reference: 12 Day Pre-General Report (10/1/04-10/13/04) and Amended 12 Day Pre-General Report (10/1/04-10/13/04), dated 11/29/04

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. **An adequate response must be received at the Commission by the response date noted above.** An itemization of the information needed follows:

-Schedule A supporting Line 15 of your report discloses a payment(s) from a federal candidate committee(s) for goods and/or services provided by your committee. 11 CFR §100.52(d)(1) states that "...the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution." Examples of goods and services include equipment, supplies, personnel, membership lists and mailing lists. The term "usual and normal charge" for goods is defined as "...the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution". The usual and normal charge for services is defined as "...the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered." 11 CFR §100.52(d)(2)

Please clarify whether your committee assessed the usual and normal charge for the goods and/or services you provided to the federal candidate committee(s) and explain the steps your committee took in determining the amount(s) charged. If your committee provided the goods and/or services at less than the usual and normal charge, the difference between the two is considered to be an in-kind contribution by your committee to the federal

candidate committee(s) and is subject to the limits set forth at 2 U.S.C. §441a. (11 CFR §100.52(d)(1))

-Please clarify all expenditures made for "Telemarketing," "Video Production," "Printing," "Polling," "Catering/Facilities" and "Postage/Shipping" on Schedule(s) B. If a portion or all of these expenditures were made on behalf of specifically identified federal candidates, this amount should be disclosed on Schedules B, E or F supporting Lines 23, 24 or 25 and include the amount, name, address and office sought by each candidate. 11 CFR §§104.3(b) and 106.1

-Schedule E discloses independent expenditures on behalf of a federal candidate(s). Schedule F of this report discloses coordinated expenditures on behalf of the same candidate(s). Under 2 U.S.C. §431(17), an "independent expenditure" is defined as:

> ... an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate; and that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized committee, or their agents, or a political party committee or its agents.

Further, 11 CFR §109.21 outlines the factors which define a coordinated communication. Please verify that the independent expenditures made by your Committee in support of Erskine Bowles, Ken Salazar, Betty Castor, Inez Tenenbaum, Tony Knowles and Chris John (by opposing David Vitter) meet the definition of and were properly categorized as independent expenditures. If necessary, amend your reports to disclose the aforementioned transactions as in-kind contributions (Schedule B supporting Line 23 of the Detailed Summary Page) or coordinated expenditures (Schedule F supporting Line 25 of the Detailed Summary Page).

If the reclassification of these expenditures as in-kind contributions results in excessive contributions, the Commission recommends that you notify the candidate(s) and request a refund of the amount in excess of $5,000 per election. If the reclassification of these expenditures as coordinated expenditures results in your committee exceeding the limitations under 2 U.S.C. §441a(d), the Commission recommends that you notify the candidate(s) and request a refund of the amount in excess of the 2004 expenditure limitation.

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Please inform the Commission of any corrective action immediately in writing and provide a photocopy of your refund request(s) sent to the candidate(s). In addition, any refunds should be disclosed on Schedule A supporting Line 16 of your next report.

-2 U.S.C. §434(b)(6)(B)(iii) requires that the supporting schedule for disclosing independent expenditures be signed by the treasurer. This is to attest to the fact that the expenditures were not made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee. Please amend your Schedule E accordingly.

-Schedule E of your report indicates that your committee may have failed to file and/or timely file one or more of the required 48 hour notices for independent expenditures (see attached). A political committee must file a 48 hour report with the Federal Election Commission as specified in 11 CFR §104.4(b), within 48 hours of any independent expenditures aggregating $10,000 or more with respect to a given election, made any time during the calendar year up to and including the 20th day before an election. The notice must be received by the Commission by 11:59 p.m. on the second day following the date on which independent expenditures that aggregate $10,000 or more are publicly distributed or disseminated. These expenditures must then be fully itemized on Schedule E, or as memo entries on Schedule E and reflected on Schedule D if distributed or disseminated prior to payment, of the next report required to be filed by the committee. Although the Commission may take further action concerning this matter, your prompt response will be taken into consideration. 11 CFR §104.3(b)

-Your committee filed 48 hour notices informing the Commission of independent expenditures made in support or opposition of federal candidates with "Great American Media" as the payee(s). However, **the dates of public dissemination** disclosed on these notices do not appear to correlate with the entries on Schedule E, supporting Line 24 for the reporting period. If your committee has filed 48 hour notices supporting independent expenditures not reflected on your reports, you must file Schedule E during the appropriate reporting period to disclose these payments. Please amend your report to clarify this discrepancy and provide further information concerning these notices.

-Your committee filed 48 hour notices informing the Commission of independent expenditures made in support or opposition of federal candidates with "Great American Media" and "Buying Time" as the payee(s). However, the **amounts and dates of public dissemination**

disclosed on these notices do not appear to correlate with the entries on Schedule E, supporting Line 24 for the reporting period. If your committee has filed 48 hour notices supporting independent expenditures not reflected on your reports, you must file Schedule E during the appropriate reporting period to disclose these payments. Please amend your report to clarify this discrepancy and provide further information concerning these notices.

-The limitation on making coordinated party expenditures on behalf of **Senate** candidates in Colorado, Florida and North Carolina for the **2004** general election is **$253,559, $977,149** and **$471,598 respectively**. Your reports, however, disclose coordinated party expenditures made on behalf of **Ken Salazar, Betty Castor and Erskine Bowles** totaling **$493,630.69, $1,910,673.57 and $524,170.02** respectively, which appear to exceed the limitations under 2 U.S.C. §441a(d).

If any apparently excessive expenditure in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information.

If you have made an excessive coordinated party expenditure, you must notify the candidate and request a refund of the amount in excess of the limitation.

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of the refund request sent to the candidate. In addition, any refunds should be disclosed on Schedule A supporting Line 16 of the report covering the period during which they are received.

Although the Commission may take further legal action concerning the excessive coordinated party expenditures, prompt action in obtaining a refund will be taken into consideration.

-Schedule F supporting Line 25 of your report discloses apparent payments to credit card companies for coordinated expenditures. In addition, your report includes memo entries on Schedule F disclosing what appear to be the original vendors from which you purchased an item or service used for these coordinated expenditures. Please amend your report to clarify which credit card payments each memo entry relates to on Schedule F.

Unlike previous election cycles, you will not receive an additional notice from the Commission on this matter. Adequate responses received on or before this date will be taken into consideration in determining whether audit action will be initiated. **Requests for extensions of time in which to respond will not be considered.** Failure to

provide an adequate response by this date may result in an audit of the committee. 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.

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) 694-1393.

Sincerely,

Jennifer L. Jones
Campaign Finance Analyst
Reports Analysis Division

203

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48 Hour Notices Filed Late

Name of Payee	Date	Amount	Purpose	Candidate
Great American Media	10/11/04	$744,787.82	Media Buy	Betty Castor
Great American Media	10/11/04	$415,817.63	Media Buy	Inez Tenenbaum

Missing 48 Hour Notices

Name of Payee	Date	Amount	Purpose	Candidate
Great American Media	10/4/04	$913,850.05	Media Buy	Inez Tenenbaum
Buying Time	10/11/04	$1,612,636.71	Media Buy	Erskine Bowles

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