

RQ-2



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 17, 2004

Brian A. Johnson, Treasurer  
Gay and Lesbian Victory Fund  
1705 DeSales Street NW, 5th Floor  
Washington, DC 20036

**Response Due Date:**  
**January 18, 2005**

Identification Number: C00251835

Reference: October Monthly Report (9/1/04-9/30/04)

Dear Mr. Johnson:

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:

-Please clarify all expenditures made for "Printing," "Telemarketing," "Printing Supplies," and "Fundraising Advertisement" 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 or E supporting Lines 23 or 24 and include the amount, name, address and office sought by each candidate. 11 CFR §§104.3(b) and 106.1

-Schedules A and B of your report disclose earmarked contributions. If the contributions passed through your committee's account, each must be itemized on Schedules A and B, regardless of the amount. If the earmarked contributions were forwarded in the form of the contributor's check, they should be disclosed as memo entries on Schedules A and B. Please refer to the enclosed sample of properly disclosed earmarked contributions. For disclosure purposes, the name and mailing address for each contributor must be provided, and where the contribution exceeds \$200, the individual's occupation and name of employer must also be itemized. Please amend your report accordingly. 11 CFR §110.6(c)(1)(v)

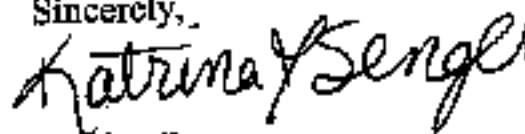
-Schedule B of your report discloses a transfer(s) totaling \$2,350.00 to what appears to be a non-federal account of your committee. Please be advised that committees that make disbursements in connection with federal and

non-federal elections and have established separate federal and non-federal accounts, must allocate their expenses pursuant to 11 CFR §§106.6 and 106.7. Please provide further clarification regarding this transfer(s). The Commission recommends that you take steps to correct any non-compliance, and that you establish procedures to ensure future compliance with the allocation regulations.

**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) 694-1137.

Sincerely,



Katrina Senger  
Campaign Finance Analyst  
Reports Analysis Division

## D. Earmarked Contributions

An *earmarked contribution* is one which the contributor directs (either orally or in writing) to a *clearly identified candidate* or candidate's committee through an intermediary or conduit. Earmarking may take the form of a designation, instruction or encumbrance and may be direct or indirect, express or implied. 110.6(b)(1).

### 1. Conduits

#### Who Is A Conduit

Anyone who receives and forwards an earmarked contribution to a candidate committee is considered a conduit or intermediary. 110.6(b)(2). (The terms "conduit" and "intermediary" are interchangeable; "conduit" will be used in the remainder of this appendix.)

Individuals, *political committees*, unregistered PACs and partnerships may act as conduits for earmarked contributions.

#### Persons Not Considered Conduits

For the purposes of the earmarking rules, certain individuals and organizations are not considered conduits even though they may participate in activities to raise money for a candidate. These persons include:

- An employee or full-time volunteer working for a *candidate committee*;
  - An individual who occupies a significant position in a candidate's campaign and who is expressly authorized to raise money on behalf of the candidate;
  - A committee affiliated with the *candidate committee*; and
  - A commercial fundraising firm retained by the *candidate committee*.
- 110.6(b)(2)(i).

### Prohibitions Apply

No corporation, labor organization, or other entity prohibited from making contributions in connection with federal elections may act as a conduit for an earmarked contribution. A *nonconnected committee* or a *separate segregated fund*, however, may act as a conduit. 110.6(b)(2)(ii); 114.3(c)(2).

Furthermore, no individual may receive a contribution on behalf of a candidate (as a conduit or otherwise) while acting as the representative of a corporation, labor organization or other entity prohibited from making contributions. 110.6(b)(2)(i)(A) and (E). See also AO 1986-4.

### 2. Contribution Limits

#### Contributor's Limit

An earmarked contribution counts against the contributor's contribution limit for the recipient candidate. 110.6(a).

#### Conduit's Limit

##### Direction or Control

The conduit's limit is affected when the conduit exercises direction or control over the contributor's choice of the recipient candidate. In that case, the full amount of the contribution counts against the limits of both the original contributor and the conduit, even though the candidate receives only one check. For examples of how the Commission has viewed the "direction or control" rule in specific situations, see AOs 1986-4, 1981-57 and 1980-46.

#### Solicited Earmarked Contributions

Note that if a committee, when making a solicitation, requests the contributor to earmark the funds for a specific candidate, the cost of the solicitation incurred by the committee is an *in-kind* contribution to the candidate, subject to the contribution limits. AO 1980-46.

#### Effect on Unregistered Organization

An unregistered organization acting as a conduit should be aware that conduit activity could result in a contribution by the organization, under the circumstances described above. In such a case, the activity may trigger registration requirements for the unregistered organization.

### 3. Forwarding Earmarked Contributions

#### 10-Day Limit

The committee must forward an earmarked contribution, along with a report (see below), to the recipient candidate committee within 10 days of receiving the contribution. 102.8(a) and (c); 110.6(c)(1)(iii).

#### Transmittal Report

Along with the funds, the conduit must forward a transmittal report containing information that the candidate's campaign committee will need for its own records and reports. 110.1(c)(1).

#### Contributions Exceeding \$50

When an earmarked contribution exceeds \$50, the accompanying report must contain the name and address of the original contributor, the date the contribution was received by the conduit and the amount. 102.8(b). The report should also state the election designated by the contributor, if any. 110.1(b)(3).

#### Contributions Exceeding \$200

When an earmarked contribution exceeds \$200, the accompanying report must contain the name and address of the contributor, the contributor's occupation and employer, the date the contribution was received by the conduit and the amount. 102.8(b). The report should also state the election designated by the contributor, if any. 110.1(b)(3).

## 4. Reporting Conduit Activity

The conduit must comply with special reporting rules, which vary depending on whether the contribution was deposited in the conduit's bank account or was passed on directly to the campaign in the form of the original contributor's check. 110.6(c)(1)(v).

A registered nonconnected committee acting as a conduit must disclose its activity on its next regularly scheduled FEC report. 110.6(c)(1)(ii).

### Contributions Deposited in Committee's Account

#### Schedule A

If an earmarked contribution passes through a nonconnected committee's account, the committee reports the following information on Schedule A:

- The name and mailing address of each person making an earmarked contribution (including earmarked contributions of \$200 or less) (110.6(c)(1)(iv)(A));
- The occupation and employer of each individual making an earmarked contribution exceeding \$200 (110.6(c)(1)(iv)(A));
- The candidate designated by the contributor as the recipient of the contribution (110.6(c)(1)(iv)(B));
- The election for which the contribution was designated, if any (see 110.1(b)(3)(i));
- The amount of the earmarked contribution (110.6(c)(1)(iv)(B)); and
- The date the contribution was received by the conduit (110.6(c)(1)(iv)(C)).

#### Schedule B

Once the committee has forwarded the contribution to the candidate (after depositing it in its own account), the committee reports on Schedule B:

- The candidate designated by the contributor (110.6(c)(1)(iv)(A));
- The date the contribution was forwarded (110.6(c)(1)(iv)(C));
- The amount forwarded to the candidate (110.6(c)(1)(iv)(B));
- The election designated by the contributor, if any (see 110.1(b)(3)(i));
- The name of the contributor (110.6(c)(1)(iv)(A));

## earmarked contributions

SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS		Use separate schedule for each address of the Contributor Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF	
Any information copied from such Receipts 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.		<input checked="" type="checkbox"/> 11a <input type="checkbox"/> 11b <input type="checkbox"/> 11c <input type="checkbox"/> 11d <input type="checkbox"/> 11e <input type="checkbox"/> 11f <input type="checkbox"/> 11g <input type="checkbox"/> 11h <input type="checkbox"/> 11i <input type="checkbox"/> 11j <input type="checkbox"/> 11k <input type="checkbox"/> 11l <input type="checkbox"/> 11m <input type="checkbox"/> 11n <input type="checkbox"/> 11o <input type="checkbox"/> 11p <input type="checkbox"/> 11q <input type="checkbox"/> 11r <input type="checkbox"/> 11s <input type="checkbox"/> 11t <input type="checkbox"/> 11u <input type="checkbox"/> 11v <input type="checkbox"/> 11w <input type="checkbox"/> 11x <input type="checkbox"/> 11y <input type="checkbox"/> 11z		12	13	14
NAME OF COMMITTEE (in full)						
Civil Republic PAC						
Full Name (Last, First, Middle Initial)						
A. Bessie Gallagher						
Mailing Address						
11 Ocean Street						
City						
Shinnecock						
State						
NY						
Zip Code						
00000						
FEC ID number of contributing individual (optional)						
C						
Name of Employer						
Perfect Day Seafood						
Occupation						
Vice President						
Amount For						
<input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)						
Aggregates Memo-Date						
500.00						
Date of Receipt						
08 19 2002						
Amount of Each Receipt (in whole)						
500.00						
Earmarked for						
Jessica Wahman, Senator, NY.						

SCHEDULE B (FEC Form 3X) ITEMIZED DISBURSEMENTS		Use separate schedule for each category of the Disbursement Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
Any information copied from such Receipts 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.		<input type="checkbox"/> 21a <input type="checkbox"/> 21b <input type="checkbox"/> 21c <input type="checkbox"/> 21d <input type="checkbox"/> 21e <input type="checkbox"/> 21f <input type="checkbox"/> 21g <input type="checkbox"/> 21h <input type="checkbox"/> 21i <input type="checkbox"/> 21j <input type="checkbox"/> 21k <input type="checkbox"/> 21l <input type="checkbox"/> 21m <input type="checkbox"/> 21n <input type="checkbox"/> 21o <input type="checkbox"/> 21p <input type="checkbox"/> 21q <input type="checkbox"/> 21r <input type="checkbox"/> 21s <input type="checkbox"/> 21t <input type="checkbox"/> 21u <input type="checkbox"/> 21v <input type="checkbox"/> 21w <input type="checkbox"/> 21x <input type="checkbox"/> 21y <input type="checkbox"/> 21z		22	23
NAME OF COMMITTEE (in full)					
Civil Republic PAC					
Full Name (Last, First, Middle Initial)					
A. Jessica Wahman for Senate					
Mailing Address					
12 Preschuppman Ln.					
City					
Dickinson					
State					
NY					
Zip Code					
00000					
Purpose of Disbursement					
Contribution					
Candidate Name					
Jessica Wahman					
Office Sought					
<input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President					
Disbursement For					
<input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify)					
Date of Disbursement					
08 25 2002					
Amount of Each Disbursement (in whole)					
500.00					
Earmarked by					
Bessie Gallagher and transmitted by committee check.					

These reporting procedures apply when the committee deposits an earmarked contribution before transmitting the funds to the candidate for whom the contributor earmarked them. When the committee transmits the contributor's original check, the procedures are the same, but the dollar amounts are listed as memo entries.

- A notation that the contribution was forwarded in the form of a check drawn on the conduit's account (110.6(c)(1)(iv)(C)); and
- A statement indicating that the conduit's limit was also affected, if appropriate. (110.6(d)(2)).

### Undeposited Contributions

If the committee forwards the contribution without depositing it first (i.e., in the form of the contributor's original check), the committee must itemize the same information listed above in memo entries on Schedules A and B. The entries should indicate that the contribution was passed on in the form of the contributor's original check and, if appropriate, should indicate that the conduit's limits for that candidate were affected.

