



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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June 15, 2007

Brian L. Wolff, Treasurer
Democratic Congressional Campaign Committee
430 South Capitol Street SE, 2nd Floor
Washington, DC 20003

Response Due Date:
July 16, 2007

Identification Number: C00000935

Reference: June Monthly Report (5/1/06-5/31/06)

Dear Mr. Wolff:

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 E discloses independent expenditures on behalf of a federal candidate. Schedule B of this report disclosed an **in-kind contribution** on behalf of the same candidate. 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 **Francine Busby, (H/CA/04)** 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).

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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**. Please inform the Commission immediately of any corrective action 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 the report covering the period during which they are received.

-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))

-Schedule A supporting Lines 15 and 17 of your report disclose payments from **ABIS, Inc., Action Mailers, Inc., Buy.com, Hewlett-Packard, Prompt Mailers, Inc., Webcraft, LLC d/b/a Vertis Direct Marketing, and American List Council, Inc.** It appears this receipt was for goods and/or services provided by your committee. Pursuant to Advisory Opinion 1979-18, the sale/purchase price paid to a political committee could involve the receipt of a contribution from a purchaser if the purchase price exceeds the "usual and normal charge". 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. Examples of goods and services include equipment, supplies, personnel,

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advertising services, membership lists, and mailing lists. 11 CFR §100.52(d)(1) and (2)

Please clarify whether your committee assessed the usual and normal charge for the goods and/or services you provided and explain the steps your committee took in determining the amount charged. If your committee provided the goods and/or services at more than the usual and normal charge, the difference between the two is considered to be an in-kind contribution received by your committee from a corporation and is prohibited subject to the limits set forth at 2 U.S.C. §441b(a)

-The totals listed on Lines 6(c), 7, 11(a)(i), 11(a)(ii), and 28(a) Column B of the **Summary and Detailed Summary Page(s)** appear to be incorrect. Please be advised that you should add the "Calendar Year-to-Date" total from your previous report to the current "Total This Period" figure from Column A to derive the correct Column B totals. Please amend your report and any subsequent reports that may be affected by this correction.

-Schedule A of your report discloses aggregate year-to-date totals for contributions received from individuals which appear to be incorrect. Please be advised that federal regulations require aggregate year-to-date totals to include only those contributions which are received during the calendar year. In the event that the aggregate year-to-date total is correct, please note that federal regulations also require the disclosure of all contributions received from individuals who have contributed over \$200. 11 CFR §104.3(a)(4) Please amend your report to provide the correct aggregate year-to-date totals.

-Schedule B supporting Line 21(b) of your report discloses payments made to credit card companies. Payments made to credit card companies must identify in memo entries, the original vendors from which you have purchased an item or service if your payments to these vendors have exceeded \$200 this year. Please amend your report by providing the name and mailing address of the original vendor, along with the date, amount and purpose of each payment as required by 11 CFR §104.9(b) and clearly identify on the Schedule B, which credit card payment each memo entry relates to.

-The independent expenditure schedule (Schedule E) should disclose the following information: the name and mailing address of the payee, the purpose of the expenditure, the date of payment, the amount of payment, the name and office sought, state and district (if applicable) of the federal

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candidate, the calendar year-to-date, per election, for office sought total, **the election designation**, an indication of whether the candidate was supported or opposed and the signature of the treasurer. Please amend Schedule E by providing **the election designation for the independent expenditures to Francine Busby ("H/CA/50") and Brian Bilbray ("H/CA/50")**. 11 CFR §104.3(b)(3)(vii)

Please note, 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) 694-1144.

Sincerely,



Edward D. Ryan
Senior Campaign Finance Analyst
Reports Analysis Division

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