



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20563

RQ-2

February 25, 2005

Bob Tuke, Treasurer  
Tennessee Democratic Party  
223 8th Avenue North Suite 200  
Nashville, TN 37203

Response Due Date:  
March 28, 2005

Identification Number: C00167346

Reference: 30 Day Post-General Report (10/14/04-11/22/04)

Dear Mr. Tuke:

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(s) 11(c) of your report discloses a receipt(s) from a candidate committee(s) (see attached) which requires further clarification. For example, if this activity represents a transfer of funds, please indicate "transfer" on Schedule A supporting Line 11(c) of your report. If this activity represents a reimbursement for services provided to this committee, please indicate this on Schedule A supporting Line 15 of your report. Please amend your report to clarify the type of activity this receipt(s) represents.

-Schedule A supporting Line 15 of your report discloses a payment(s) from an organization(s) which is not a political committee(s) registered with the Commission (see attached). It appears the receipt(s) 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.

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Examples of goods and services include equipment, supplies, personnel, advertising services, membership lists, and mailing lists. 11 CFR §100.52(d)(1)

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(s) received by your committee from an unregistered organization(s) and is prohibited subject to the limits set forth at 2 U.S.C. §§441a(f) and 441b or 11 CFR §102.5(b).

-Schedule B supporting Line 21(b) of your report discloses a payment(s) totaling \$21,623.82 for "Get Out The Vote Advertising," "GOTV Advertising," "GOTV Bulk-Rate Postage" and "GOTV Mailer." 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 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 amend your report to properly disclose this activity or provide clarifying information.

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 amend your report to properly disclose this activity or provide clarifying information.

-Schedule B supporting Line 21(b) of your report discloses a payment(s) for "Campaign Materials" which appears to meet the definition of Federal

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Election Activity ("FEA") and may also meet the conditions of exempt party activity as defined under 11 CFR §§100.80, 100.87, 100.89 and 11 CFR §§100.140, 100.147 and 100.149. Please be advised that activity which simultaneously constitutes both exempt activity and FEA must be paid for as an FEA activity.

If this apparent exempt activity represents Get-out-the-vote activity conducted in connection with an election in which one or more candidates for Federal office appear on the ballot, it is considered to be Federal Election Activity. If this apparent exempt activity represents Voter Registration activity during the period that begins on the date that is 120 calendar days before the date that a regularly scheduled Federal election is held and ends on the date of the election, it is considered to be Federal Election Activity. 11 CFR §100.24

If this apparent exempt activity is a public communication(s) (as defined under 11 CFR §100.26) that refers to a clearly identified candidate for Federal office and promotes, supports, attacks or opposes any candidate for Federal office, it meets 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 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 amend your report to clarify (1) whether the activity disclosed meets the conditions of exempt party activity and (2) the type of FEA this activity represents or provide clarifying information as to why it does not meet the definition of FEA. In addition, please properly disclose this activity if necessary.

-Schedule B supporting Line 21(b) of your report discloses a payment(s) for "Get Out The Vote Stage Setup," "GOTV Phonebank," "GOTV Postage" and "GOTV Printing" which appears to be disclosed on the wrong line of the Detailed Summary Page. Please be advised that Voter Identification, Generic Campaign and Get-out-the-vote activity conducted in connection with an election in which one or more candidates for Federal office appear

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on the ballot is considered to be Federal Election Activity. 11 CFR §100.24 Please amend your report to properly disclose this activity on Line 30(b) or provide clarification regarding this activity.

-Schedule B supporting Line 22 discloses \$200,000.00 in transfers to what appears to be a non-federal account of your committee. Please provide further clarification regarding this transfer to your non-federal account.

You are advised that 11 CFR §102.5 prohibits a non-federal account from financing activity in connection with federal elections. If any of the disbursements disclosed on Schedule B supporting Line 22 were made to influence the election or defeat of specific federal candidates, the disbursements should be allocated accordingly and disclosed as either in-kind contributions on Schedule B supporting Line 23, independent expenditures on Schedule E supporting Line 24, or as coordinated expenditures on Schedule F supporting Line 25. 11 CFR §§104.3(b)(3) and 106.1 In addition, if your non-federal account has paid any expenditures which should have been allocated, you are advised to correct any non-compliance with 11 CFR §§106.6 and 106.7 and establish procedures to insure future compliance with allocation regulations.

-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 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. 11 CFR §104.3(b)(3)(vii)

**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.**

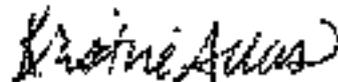
Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather

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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) 694-1141.

Sincerely,



Kristine Adams

Campaign Finance Analyst  
Reports Analysis Division

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## Receipt(s) from Candidate Committee(s):

Contributor Name	Date	Amount	Report
Committee to Re-Elect Harold Ford, Jr.	10/29/04	\$10,000.00	2004 30 Day Post-General
Congressman Bart Gordon Committee	10/27/04	\$10,000.00	2004 30 Day Post-General
Cooper for Congress Committee	10/29/04	\$10,000.00	2004 30 Day Post-General
Friends of John Tanner	11/01/04	\$10,000.00	2004 30 Day Post-General
Friends of John Tanner	10/18/04	\$62,500.00	2004 30 Day Post-General
Friends of John Tanner	10/20/04	\$12,000.00	2004 30 Day Post-General
Friends of John Tanner	10/29/04	\$4,822.50	2004 30 Day Post-General
Lincoln Davis For Congress	10/21/04	\$25,000.00	2004 30 Day Post-General
Lincoln Davis For Congress	10/28/04	\$10,000.00	2004 30 Day Post-General

## Receipt(s) from Unregistered Organization(s):

Contributor Name	Date	Amount
Coffee County Democratic Party	10/27/04	\$80.00
Henry County Democratic Party	10/27/04	\$160.00
Macon Co. Democrat Party	10/27/04	\$275.00
Putnam Co. Democratic Party	10/27/04	\$1,034.00
Scott County Democratic Party	10/27/04	\$267.00
Sullivan County Democratic Party	10/27/04	\$105.75
White County Democratic Party	10/27/04	\$80.00

