



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

RQ-2

February 4, 2005

Rob Fyrst, Treasurer
Democratic Party Of Wisconsin Federal Account
222 W. Washington Avenue
Suite 150
Madison, WI 53703

Response Due Date:
March 7, 2005

Identification Number: C00019331

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

Dear Mr. Fyrst:

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:

-The beginning cash balance of this report should equal the ending balance of your 12 Day Pre-General Report (10/1/04-10/13/04). Please clarify this discrepancy and amend any subsequent report(s) that may be affected by this correction.

-The totals listed on Lines 6(c), 7, 11(a)(ii), 11(d), 15, 17, 19, 20, 21(a)(i), 21(a)(ii), 21(c), 30(b), 30(d), 31 and 32, 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.

-Your calculations for Line 8 appear to be incorrect. Cash-on-hand at the close of the current reporting period should always equal the closing calendar year-to-date cash-on-hand amount. Please provide the corrected total on the Summary Page.

-Schedule A supporting Line 11(a)(i) of the Detailed Summary Page discloses several anonymous contributions totaling \$6,346.50. Please be

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advised that an anonymous cash contribution is limited to \$50. Any amount in excess of \$50 may not be used for federal election purposes. 11 CFR §110.4(c)(3) If these contributions consisted of amounts not in excess of \$50, please disclose them on Line 11(a)(ii) of the Detailed Summary Page. Otherwise, please transfer-out the amount in excess of \$50 to an account not used to influence federal elections.

-Schedule A supporting Line 15 of your report discloses \$1,043.00 from "Selective Insurance" for offsets to operating expenditures; however, your report(s) does not appear to disclose a disbursements to this entity. Please provide clarifying information regarding this activity and amend your report(s) if necessary.

-The limitation on making coordinated party expenditures on behalf of a Senate candidate for the 2004 general election is \$308,852.00. Your reports, however, disclose coordinated party expenditures made on behalf of Russ Feingold totaling \$1,003,900.00, which appear to exceed the limitations under 2 U.S.C. §441a(d) (see attached).

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 A of your report discloses one or more contributions totaling \$14,550.00 from "Goodman Family Enterprises," "Allen Scholman & Associates," "Sandro, Inc.," "R & S Associates" and "Straus Communications," which appears to be a corporation(s). 2 U.S.C. §441b(a) prohibits the receipt of contributions from corporations unless made from a separate segregated fund established by the corporation.

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

If you have received a prohibited contribution(s), you may have to make a refund. If within 30 days of receipt you (1) transferred the prohibited amount to an account not used to influence federal elections, and (2) provided written notice to the person making the contribution of the option of receiving a refund, you may retain the contribution in an account not used to influence federal elections. Any request from a donor for a refund must be honored.

If the foregoing conditions for transfers to a non-federal account were not met within 30 days of receipt, the prohibited amount must be refunded. See 11 CFR §103.3(b)(1).

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of your check for any transfer-out or refund. In addition, any transfers-out or refunds should be disclosed on Schedule B supporting line 22 or 28 of the report covering the period during which the transaction was made.

Although the Commission may take further legal action concerning the acceptance of a prohibited contribution, prompt action by your committee to transfer-out or refund the amount will be taken into consideration.

-Schedule A of your report (see attached) discloses one or more contributions which appear to exceed the limits set forth in the Act. 2 U.S.C. §441a(f) and 11 CFR §110.1(e) prohibit a state, district or local party committee (combined) from receiving any contribution from a person or non-multicandidate political committee in excess of \$10,000 per calendar year.

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

If any contribution you received exceeds the limits, you may have to refund the excessive amount. The funds can be retained if within 60 days of receipt, (1) the excessive amount was properly reattributed to another person, such as a joint account holder, by obtaining signed written authorizations from each person making the contribution pursuant to 11 CFR 110.1(k)(3), and (2) the treasurer informs the person making the

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contribution that he or she may request the return of the excessive portion of the contribution if it is not intended to be a joint contribution. Any request from a donor for a refund must be honored.

Alternatively, the funds can be retained if within 60 days of receipt you (1) transferred the excessive amount to an account not used to influence federal elections, and (2) provided written notice to the person making the contribution of the option of receiving a refund. Any request from a donor for a refund must be honored.

If the foregoing conditions for reattributions or transfers to a non-federal account were not met within 60 days of receipt, the excessive amount must be refunded.

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of your check for any transfer-out or refund. In addition, any reattributions should be reported as memo entries on Schedule A of the report covering the period during which the authorization for the retribution is received. Any transfers-out or refunds should be disclosed on Schedule B supporting Line 22 or 28 of the report during which the transaction was made.

Although the Commission may take further legal action regarding the acceptance of an excessive contribution(s), prompt action by your committee to seek retribution, transfer-out or refund the excessive amount will be taken into consideration.

-Schedule B supporting Line 30(b) of your report discloses a payment(s) for "Bulk Mail Charges," "Bulk Mail Postage Due," "Deposit GOTV autocalls," "Direct Mail Production," "GOTV autocalls," "Paid GOTV Autocalls," "Paid Telephone Autocalls field event," "Paid Telephone Identification Calls," "Persuasion Mail Production," "Phone Bank facility lease," "Telephone Bank and Data Entry" and "Telephone bank rental" 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

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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 30(b) of your report discloses a payment(s) for "Campaign Literature Production," "Literature Printing - Walk Piece" and "Truck rental literature delivery" which appears to meet the definition of Federal 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

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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.

-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): "Reimbursements various," "Voter Protection Food" and "Voter Protection Food Purchase." For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

-Please clarify all expenditures made for "Catering Staff Event," "Event Catering Expenses," "Event Venue Fees," "Event Venue Rental," "Facility Rental Staff Event," "Facility Use Rental," "Surrogate Event food" and "Surrogate Event Venue Rental" 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 A supporting Line 12 discloses a transfer(s)-in from the Democratic National Committee. Schedule B supporting Line 30(b) reflects payments for "Doorhanger Design and Production." Please be advised that a state or local party committee may pay for campaign materials (such as pins, posters, bumper stickers and yard signs) that are distributed by volunteers in connection with activity on behalf of the party's nominees in a general election. 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 and if any portion of the expenditures were made on behalf of specifically identified candidates, that amount must be disclosed on Schedule B, E or F supporting Line 23, 24 or 25 of the Detailed Summary Page as appropriate.

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-Schedule A of your report discloses contributions from political committees that fail to include a full and/or recognizable name. Reporting only the name of the connected organization, abbreviating the name of the committee so it is unrecognizable, or using an indistinguishable acronym is inadequate. The following committee names from your report need further clarification: "The Procter & Gamble Company," "International Longshoremen's Association," "National Air Traffic Controllers" and "International Longshore & Warehouse Union."

Please amend your report to include the missing information. 11 CFR §§100.12, 102.14(c) and 104.3(a)(4)(ii)

-You have previously indicated that your committee has been using "best efforts" to obtain the full name, mailing address, occupation and name of employer for each contributor. However, an increasing number of entries lack this information. Please amend your report by supplying the omitted information or providing an explanation of your efforts in this regard. 11 CFR §§104.3(a)(4)(i) and 104.7

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) 694-1135.

Sincerely,



Maureen Benitz

Senior Campaign Finance Analyst
Reports Analysis Division

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Excessive Contribution To a Candidate:

Recipient Name	Date	Amount	Election	Report
Russ Feingold	9/27/04	\$616,000.00	2004 General	October Monthly
Russ Feingold	9/30/04	\$99,000.00	2004 General	October Monthly
Russ Feingold	10/5/04	\$99,000.00	2004 General	12 Day Pre-General
Russ Feingold	10/21/04	\$62,800.00	2004 General	30 Day Post General
Russ Feingold	10/25/04	\$28,700.00	2004 General	30 Day Post General
Russ Feingold	10/25/04	\$98,400.00	2004 General	30 Day Post General

Excessive Contribution From an Individual:

Contributor Name	Date	Amount	Report
Abert, Grant	09/09/04	\$5,000.00	October Monthly
Abert, Grant	10/22/04	\$3,000.00	30 Day Post General
Abert, Grant	10/22/04	\$7,000.00	30 Day Post General

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