



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

February 4, 2009

Katherine Moret, Treasurer
Democratic State Central Committee
of CA - Federal
1401 21st Street, Suite 200
Sacramento, CA 95811

**Response Due Date:
March 9, 2009**

Identification Number: C00105668

Reference: October Monthly Report (9/1/08 – 9/30/08)

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. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following **8** items:

1. Schedule H4 of your report discloses apparent in-kind contributions to your committee from "Demo Headquarters of the West San Gabriel Valley," "Kern County Democratic Central Committee," "Northeast Democratic Community Headquarters," "San Bernardino County Democratic Central Committee" and "Santa Clara County Democratic Party." Please be advised that the value of in-kind contributions must be added to the receipts and disbursements total in order to avoid either inflating or deflating the cash on hand amount, and itemized on the appropriate Schedules. 11 CFR § 104.13(a)(2) Please amend your report by itemizing the in-kind contributions on Schedule A.

2. Your report discloses disbursements for "payment for registering voters" to several non-federal committees on Schedule H6. Please be advised that this type of activity constitutes a transfer of funds and is therefore not activity that can be paid with allocated (federal and Levin) monies. Your federal account may receive transfers from your Levin account in order to pay for the costs of certain Federal Election Activity that does not refer to a clearly identified candidate for Federal office. 11 CFR §§300.32 and 300.33 However, reimbursement from your committee's Levin account for transfers and contributions to other committees is not permissible.

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Federally registered committees which received these funds will be required to either transfer the funds to a non-federal account or return the Levin portion to your committee's Levin account. 11 CFR §102.5 Unregistered committees in receipt of these funds may be required to register as political committees, because of the voter drive activity that they have apparently conducted.

Should you decide to engage in this type of activity in the future, note that all payments must be made from your federal account with no reimbursement from your Levin account. The Commission recommends that you immediately transfer the funds received by your federal account, as reimbursement for the Levin portion, back to your Levin account. Please inform the Commission of your corrective action immediately. Although the Commission may take further legal action regarding this apparent impermissible activity, your prompt action will be taken into consideration.

3. Schedule H5 of your report discloses a \$20,374.20 transfer(s)-in of Levin funds to your federal account for GOTV activity. However, Schedule L-B supporting Line 4(a) of the Schedule L Aggregation Page for the "Dem State Central Comm of CA -Levin Account" account discloses a \$20,374.20 transfer(s)-out of Levin funds for this activity. Please amend your report to clarify this apparent discrepancy.

4. Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "press advisor," "signs" and "signs, copying." Please be advised that pursuant to 11 CFR §300.33(c)(1), expenditures for public communications (as defined by 11 CFR §100.26) that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any such candidate for Federal office must not be allocated between or among federal and non-federal accounts. Only federal funds may be used.

Further, 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). However, 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

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than on Schedule B for Line 30(b). Please amend your report to properly disclose this activity or provide clarifying information.

If this activity was categorized incorrectly, the Commission recommends that you immediately transfer the funds received by your federal account for this activity back to the non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

5. The Detailed Summary Page, on Line 18(a) Column A of your Amended August Monthly (7/1/08 – 7/31/08), received 10/20/08, Amended September Monthly (8/1/08-8/31/08), received 12/15/08, and October Monthly (9/1/08 – 9/30/08) Reports combined disclose \$74,432.98 in transfers from the non-federal account for allocated activity for the “Ongoing Fundraiser” event for the reporting period. However, Line 21 (a)(ii) Column A discloses \$63,227.96 as the non-federal share for allocated activity for the “Ongoing Fundraiser” event for the reporting period. While the non-federal account is permitted to transfer funds to the federal account for allocated activity, transfers for allocated activity must be made within a 70-day time period: no more than 10 days before or 60 days after the payment to the vendor. 11 CFR §§106.6(e)(2) and 106.7(f)(2) Please clarify the nature of the transfers-in from the non-federal account.

The Commission recommends that you immediately transfer back to the non-federal account, the total excessive amount which was received by your federal account outside the 70-day time period. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

6. Schedule H3 of your report discloses a transfer(s)-in from a non-federal account(s) for “SF Watch Party” which appears to exceed the permissible amount(s) indicated by your allocation ratio for this activity/event. Please be advised that transfers for allocated activity must not exceed the non-federal share of the joint disbursements and that these transfers must be made within a 70-day time period: no more than 10 days before or 60 days after payment to the vendor. 11 CFR §§106.6(e)(2) and 106.7(f)(2) Please clarify the nature of this transfer(s)-in from the non-federal account.

The Commission recommends that you immediately transfer the total excessive amount received by your federal account back to your non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

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7. Your report discloses in-kind contributions ("donations") from "S.K. Seymour, LLC" on Schedule H4, supporting Line 21(a) of the Detailed Summary Page. Pursuant to Advisory Opinion 1992-33, the Commission concluded that a party committee may accept corporate in-kind donations in connection with fundraising activities as long as the federal share of goods or services is paid or transferred to the non-federal account upon receipt of or in advance of the acceptance of the corporate in-kind donations by the federal account.

Advisory Opinion 1992-33 also discloses a detailed method for reporting the receipt and use of in-kind contributions as follows:

1. The transfer of the in-kind corporate contribution from the non-federal account to the federal account should be disclosed on Schedule H3. The itemization on Schedule H3 should include the date the Committee received the in-kind contribution, the amount of the contribution and the fundraising event involved.

2. The use or expenditure of in-kind corporate contributions should be disclosed on Schedule H4 as non-federal share disbursements. The itemization should provide the same donor identification information required on a Schedule A for in-kind contributions for Federal elections.

3. A second entry on Schedule H4 should then disclose the advance or contemporaneous payment of the federal account's share of the in-kind corporate contribution to the non-federal account.

Please amend your report to properly disclose the in-kind corporate contributions received by your committee by itemizing on Schedule H3 the receipt of the in-kind contribution (example enclosed).

8. Schedule H4 of your report discloses disbursements for the Administrative category which use a ratio that is inconsistent with the ratio disclosed on Schedule H1. The fixed ratio for the allocation of administrative, generic voter drive and exempt activity expenses by State, district and local party committees should be the same for the full two-year election cycle unless a scheduled Special election would change this ratio. Please amend your report to clarify this apparent discrepancy.

Please note that if your non-federal account has overpaid your federal account because of this miscalculation, it will be necessary to immediately transfer these funds back to the non-federal account. While the Commission may take further legal action concerning any impermissible

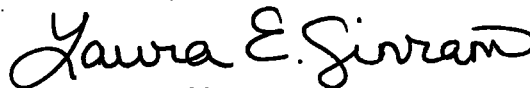
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overpayments by the non-federal account, your prompt action will be taken into consideration.

Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. 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. **Requests for extensions of time in which to respond will not be considered.**

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) 694-1157.

Sincerely,



Laura E. Sinram
Senior Campaign Finance Analyst
Reports Analysis Division

Reporting Method 2

Under the alternative method, the committee reports the receipt of the \$400 rebate under the category "Offsets to Operating Expenditures" on Line 15 of the Form 3X Detailed Summary Page. The committee uses Schedule H4 to disclose the federal account's \$256 transfer to the nonfederal account for the nonfederal share.

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10. Prohibited In-Kind Donations for Allocable Activities

While contributions from corporations, labor organizations and federal government contractors are prohibited under federal law, they are permissible under some state laws. If that is the case, such donations may be accepted by a nonfederal account for strictly nonfederal activity. However, the situation is more complicated when donations of goods or services from such sources are made in connection with allocable activity, such as a fundraiser at which both federal and nonfederal funds are collected. The acceptance of nonfederal goods or services has been limited to allocable administrative or fundraising activity. See AO 1992-33.²

Advance Payment of Federal Share

To avoid the receipt of a prohibited contribution by the federal account, that account must pay the nonfederal account for the federal share of the in-kind donation. This payment—a transfer to the nonfederal account—must be made in advance or on the date the goods or services are received.

² Although AO 1992-33 no longer applies to national party committees, it may still apply to state, district and local party committees in certain circumstances.

RECEIPT OF IN-KIND DONATION (H3)

SCHEDULE H3 (FEC Form 3X) TRANSFERS FROM NON-FEDERAL ACCOUNTS FOR SHARED FEDERAL / NON-FEDERAL ACTIVITY			PAGE	OF
			FOR LINE 18a OF FORM 3X	
NAME OF COMMITTEE (In Full) Freedom Party State Committee				
NAME OF ACCOUNT Nonfederal Account	DATE OF RECEIPT 10 01 2008	TOTAL AMOUNT TRANSFERRED 5,000.00		
BREAKDOWN OF TRANSFER RECEIVED				
i) Total Administrative				
ii) Generic Voter Drive				
iii) Exempt Activities				
iv) Direct Fundraising (List Activity or Event Identifier)				
a) Chairman's Gala - In Kind			5,000.00	

DISBURSEMENT OF IN-KIND DONATION; FEDERAL TRANSFER (H4)

SCHEDULE H4 (FEC Form 3X) DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE			PAGE	OF
			FOR LINE 21a OF FORM 3X	
NAME OF COMMITTEE (In Full) Freedom Party State Committee				
A. Full Name (Last, First, Middle Initial) Pretty Flowers, Inc.		Allocated Activity or Event: <input type="checkbox"/> Administrative <input checked="" type="checkbox"/> Fundraising <input type="checkbox"/> Exempt		
Mailing Address 111 West Meadow Lane		<input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support		
City State Zip Code City ST 00000		Allocated Activity or Event Year-To-Date 5,000.00		
Purpose of Disbursement Flowers - In Kind		Category/Type 003	Date 10 01 2008	
Activity or Event Identifier: Chairman's Gala				
FEDERAL SHARE	+	NON-FEDERAL SHARE	=	TOTAL AMOUNT
0.00		5,000.00		5,000.00
B. Full Name (Last, First, Middle Initial) Freedom Party State Committee Nonfederal Account		Allocated Activity or Event: <input type="checkbox"/> Administrative <input checked="" type="checkbox"/> Fundraising <input type="checkbox"/> Exempt		
Mailing Address 123 Washington St.		<input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support		
City State Zip Code City ST 00000		Allocated Activity or Event Year-To-Date		
Purpose of Disbursement: Transfer of Federal Share of Flowers--In Kind		Category/Type 003	Date 10 01 2008	
Activity or Event Identifier: Chairman's Gala				
FEDERAL SHARE	+	NON-FEDERAL SHARE	=	TOTAL AMOUNT
2,500.00		0.00		2,500.00

Per-Transaction Transfers

The federal transfer may be made on a per-transaction basis—that is, shortly before or on the same day the in-kind donation is received.

Escrow Transfers

Alternatively, the federal account may make bulk transfers to cover the federal share of anticipated in-kind donations. Under this "escrow" arrangement, a committee makes a good faith estimate of the amount of in-kind donations that it expects to receive and transfers sufficient funds from the federal account to cover the federal share.

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RECEIPT OF IN-KIND DONATION (H3)

SCHEDULE H3 (FEC Form 3X)
TRANSFERS FROM NON-FEDERAL ACCOUNTS FOR SHARED FEDERAL / NON-FEDERAL ACTIVITY

PAGE 1 OF 1
 FOR LINE 18a OF FORM 3X

NAME OF COMMITTEE (in Full)
 Freedom Party State Committee

NAME OF ACCOUNT Nonfederal Account	DATE OF RECEIPT 07 / 01 / 2008	TOTAL AMOUNT TRANSFERRED 4,000.00
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BREAKDOWN OF TRANSFER RECEIVED

i) Total Administrative

ii) Generic Voter Drive

iii) Exempt Activities

iv) Direct Fundraising (List Activity or Event Identifier)

a) July Fundraiser - In-kind
 see H4, p. 1, entries A&B 4,000.00

b)

c) Total Amount Transferred For Direct Fundraising 4,000.00

Basic Reporting of In-Kind Donations: Example

On October 1, a state party committee receives a \$5,000 in-kind donation of flowers from a corporation for a federal/nonfederal fundraiser ("Chairman's Gala"). The estimated allocation ratio for the fundraiser is 50 percent federal and 50 percent nonfederal. That same day, the federal account transfers its share of the in-kind donation (\$2,500) to the nonfederal account.

Required Forms

- Schedule H2—Allocation Ratios
- Schedule H3—Transfers from Nonfederal Account
- Schedule H4—Payments for Allocable Expenses

DISBURSEMENT OF IN-KIND DONATION; FEDERAL TRANSFER (H4)

SCHEDULE H4 (FEC Form 3X)
DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE

PAGE 1 OF 1
 FOR LINE 21a OF FORM 3X

NAME OF COMMITTEE (in Full)
 Freedom Party State Committee

A. Full Name (Last, First, Middle Initial)
 XYZ Printing

Mailing Address
 111 Pulp Street
 City ST 00000

Purpose of Disbursement:
 Invitations - In-kind

Activity or Event Identifier:
 July Fundraiser

Allocated Activity or Event:
 Administrative Fundraising Exempt
 Voter Drive Direct Candidate Support

Allocated Activity or Event Year-To-Date
 3,000.00

Date: 07 / 01 / 2008

FEDERAL SHARE	+	NON-FEDERAL SHARE	=	TOTAL AMOUNT
0.00		3,000.00		3,000.00

B. Full Name (Last, First, Middle Initial)
 Balloons Inc.

Mailing Address
 99 Luft St.
 City ST 00000

Purpose of Disbursement:
 Balloons - In-kind

Activity or Event Identifier:
 July Fundraiser

Allocated Activity or Event:
 Administrative Fundraising Exempt
 Voter Drive Direct Candidate Support

Allocated Activity or Event Year-To-Date
 1,000.00

Date: 07 / 15 / 2008

FEDERAL SHARE	+	NON-FEDERAL SHARE	=	TOTAL AMOUNT
0.00		1,000.00		1,000.00

C. Full Name (Last, First, Middle Initial)
 Freedom Party State Committee Nonfederal Account

Mailing Address
 123 Washington St.
 City ST 00000

Purpose of Disbursement:
 Transfer of Federal Share of In-kind

Activity or Event Identifier:
 July Fundraiser

Allocated Activity or Event:
 Administrative Fundraising Exempt
 Voter Drive Direct Candidate Support

Allocated Activity or Event Year-To-Date

Date: 07 / 01 / 2008

FEDERAL SHARE	+	NON-FEDERAL SHARE	=	TOTAL AMOUNT
2,000.00		0.00		2,000.00

Schedule H3—Receipt of In-Kind Donation

The committee reports the receipt of the in-kind donation as a transfer from the nonfederal account for the "Chairman's Gala" fundraiser. The date used here is the date the committee received the flowers.

"Disbursement" of In-Kind Donation (H4)

Like in-kind contributions, in-kind donations must be reported as both receipts and disbursements so as not to inflate the cash-on-hand balance. (The disbursement side reflects the use or "expenditure" of the resources.) Schedule H4 is used for the disbursement entry, which shows the \$5,000 in-kind donation as a 100 percent non-federal disbursement. The donor's name and address is disclosed in the box generally used for payees.

Adjustments

Should the federal account pay more than its share of an in-kind donation, adjustment transfers from the nonfederal account are permissible.

Transfer from Federal Account (H4)

The second entry on Schedule H4 shows the contemporaneous transfer of \$2,500 (the federal share of the donation) from the federal account to the

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nonfederal account. The explanation of the transfer is described in the "Purpose" box, with a reference to the previous entry.

Alternative Reporting Method

To minimize entries and avoid duplication, a committee may use alternative methods to report transactions relating to in-kind donations.

The committee may use one entry on Schedule H3 to show the receipt of all in-kind donations made within the same reporting period for a particular fundraising program or event (or administrative activity).

The committee may also use one entry on Schedule H4 to show total federal payments (transfers) made on the same day for the federal share of in-kind donations.

Example

A committee receives two in-kind donations from prohibited sources for a mixed federal/nonfederal fundraising event, "July Fundraiser":

- Invitations donated by XYZ Printing (value: \$3,000) received on July 1; and
- Balloons donated by Balloons!, Inc. (value: \$1,000) received on July 15.

The fundraising ratio for "July Fundraiser" is 50 percent federal, 50 percent nonfederal. The federal account transfers its \$2,000 share of the two donations on July 1.

Schedule H3—Receipt of In-Kind Donations

The committee uses one entry on Schedule H3 to show the total in-kind donations for "July Fundraiser" received during the reporting period. The "date of receipt" shows the period during which the committee received the contributions. The "July Fundraiser" entry cross references the Schedule H4 entries showing the "disbursement" of the donations and the identity of the contributors.

Schedule H4—"Disbursement" of Donations; Federal Transfer

Schedule H4 shows the "disbursement" of the two in-kind donations by the nonfederal account, each entry identifying the donor and the dates the donations were received.

The third entry shows the federal account's payment for its 50 percent share of the two donations and the date of the transfer to the nonfederal account. The entry refers to the previous two entries to show the transfer relates to those transactions.

"Escrow" Transfer

Advance transfers from the federal account to the nonfederal account to pay the federal share of anticipated in-kind donations for allocable activities are reported on Schedule H4 as federal share payments. If known, the particular activity (fundraising program/event or administrative) to which the transfer applies should be noted. Any adjustment payments made from the nonfederal account to the federal account would appear on Schedule H3, noting the previous H4 entries to which they relate.

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