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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

July 30, 2014

JOHN GULINO, TREASURER
NEW YORK STATE DEMOCRATIC
COMMITTEE
750 THIRD AVENUE, 31ST FLOOR
NEW YORK, NY 10017

Response Due Date
09/03/2014

IDENTIFICATION NUMBER: C00143230

REFERENCE: AMENDED MARCH MONTHLY REPORT (02/01/2014 - 02/28/2014),
RECEIVED 04/11/2014

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report 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 **2** item(s):

1. Schedule B supporting Line 29 of your report discloses a disbursement for an apparent refund or rebate to your non-federal account for an allocated expense. Please be advised the refund or rebate must be allocated between the federal and non-federal accounts according to the same allocation ratio used to allocate the original disbursement. Furthermore, the federal account must transfer the non-federal portion to the non-federal account using one of two methods.

The method of reporting described in Advisory Opinion 1995-22 allows a committee to itemize the refund or rebate as a negative entry on Schedule H4. Alternatively, a committee may disclose the receipt of the refund or rebate into the federal account on Schedule A supporting Line 15, and the transfer of the non-federal account's share to the non-federal account on Schedule H4. Please refer to the enclosed sample of properly reported refunds and rebates of allocable activity and amend your report as appropriate.

2. Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "Communications Consulting". 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

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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 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.

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) 694-1175.

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Sincerely,

Sarah Juris

Sarah Juris
Campaign Finance Analyst
Reports Analysis Division

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ALLOCATION OF IN-KIND CONTRIBUTION (B)

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) ☐ 21b ☐ 22 ☒ 23 ☐ 24 ☐ 25 ☐ 26 ☐ 27 ☐ 28a ☐ 28b ☐ 28c ☐ 29 ☐ 30b

PAGE OF

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NAME OF COMMITTEE (In Full): Freedom Party State Committee

A.
Full Name (Last, First, Middle Initial): David Jacoby
Mailing Address: 111 Harborside Ave.
City: City State: ST Zip Code: 00000
Purpose of Disbursement: Graphics Design
Candidate Name: June Mailing
Office Sought: ☐ House ☐ Senate ☐ President
State: District:
Disbursement For: ☐ Primary ☐ General ☐ Other (specify)
Category/Type: 011
Date of Disbursement: 06 / 01 / 2014
Amount of Each Disbursement this Period: 400.00
See allocation below.

B.
Full Name (Last, First, Middle Initial): Jay Meyer for Congress
Mailing Address: 111 East Egg Street
City: City State: ST Zip Code: 00000
Purpose of Disbursement: Contribution
Candidate Name: Jay Meyer
Office Sought: ☒ House ☐ Senate ☐ President
State: ST District: 6
Disbursement For: ☐ Primary ☒ General ☐ Other (specify)
Category/Type: 011
Date of Disbursement: 06 / 01 / 2014
Amount of Each Disbursement this Period: 200.00
MEMO

C.
Full Name (Last, First, Middle Initial): Bob Voterfriend for Congress
Mailing Address: 111 Bond Street
City: City State: ST Zip Code: 00000
Purpose of Disbursement: Contribution
Candidate Name: Bob Voterfriend
Office Sought: ☒ House ☐ Senate ☐ President
State: ST District: 5
Disbursement For: ☐ Primary ☒ General ☐ Other (specify)
Category/Type: 011
Date of Disbursement: 06 / 01 / 2014
Amount of Each Disbursement this Period: 200.00
MEMO

SUBTOTAL of Disbursements This Page (optional)
TOTAL This Period (last page this line number only)

FE3AN037.PDF FEC **Schedule B (Form 3X)** Rev. 02/2003

9. REFUNDS AND REBATES OF ALLOCABLE EXPENSES

If a committee receives a refund or a rebate of an allocable expense, the refund or rebate must be deposited in the federal or allocation account. The refund or rebate must then be allocated between the federal and nonfederal accounts according to the same allocation ratio used to allocate the original disbursement. The federal account must transfer the nonfederal portion to the nonfederal account.

Example

A committee receives a $400 rebate on office equipment from the Acme Office Store. The original purchase was an administrative expense allocated according to the following ratio: 36 percent federal; 64 percent nonfederal.

Reporting Method 1 on page 111 illustrates how this rebate would be reported according to the method approved in AO

NONFEDERAL TRANSFER (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	DATE OF RECEIPT	TOTAL AMOUNT TRANSFERRED
Nonfederal Account	08 / 31 / 2014	4,000.00

iv) Direct Fundraising (List Activity or Event Identifier)
a) Big Event 2,000.00
b)
c) Total Amount Transferred For Direct Fundraising 2,000.00

v) Candidate Support (List Activity or Event Identifier)
a) Johnson / Smith Posters 2,000.00
b)
c) Total Amount Transferred For Direct Candidate Support 2,000.00

TOTALS FOR BREAKDOWN OF TRANSFER RECEIVED

TOTAL This Period (Administrative)
TOTAL This Period (Generic Voter Drive)
TOTAL This Period (Direct Fundraising Amount) 2,000.00
TOTAL This Period (Direct Candidate Support) 2,000.00
TOTAL This Period (Exempt Activities)
TOTAL This Period (Total Amount Transferred) 4,000.00

1995-22.[3] Reporting Method 2 shows how the rebate would be reported under an alternative method.

Reporting Method 1

Using the method of reporting described in AO 1995-22, the committee discloses the receipt of the rebate and the federal and nonfederal shares on Schedule H4. The amounts are negative entries subtracted from total shared federal and nonfederal disbursements for the reporting period (disclosed on Lines 21a(i) and (ii) of the Detailed Summary Page).

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.

ALLOCATED PAYMENT (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): Acme Printing
Mailing Address: 111 Gutenburg St.
City: City State: ST Zip Code: 00000
Purpose of Disbursement: Printing (see below)
Activity or Event Identifier:
Category/Type:
Allocated Activity or Event: [ ] Administrative [ ] Fundraising [ ] Exempt [ ] Voter Drive [ ] Direct Candidate Support
Allocated Activity or Event Year-To-Date:
Date: 09 / 01 / 2014
FEDERAL SHARE + NON-FEDERAL SHARE = TOTAL AMOUNT: MEMO 11,000.00

B. Full Name (Last, First, Middle Initial): Acme Printing
Mailing Address: 111 Gutenburg St.
City: City State: ST Zip Code: 00000
Purpose of Disbursement: Printing Invitations
Activity or Event Identifier: Big Event
Category/Type: 003
Allocated Activity or Event: [ ] Administrative [X] Fundraising [ ] Exempt [ ] Voter Drive [ ] Direct Candidate Support
Allocated Activity or Event Year-To-Date: 5,000.00
Date: 09 / 01 / 2014
FEDERAL SHARE: 3,000.00 + NON-FEDERAL SHARE: 2,000.00 = TOTAL AMOUNT: 5,000.00

C. Full Name (Last, First, Middle Initial): Acme Printing
Mailing Address: 111 Gutenburg St.
City: City State: ST Zip Code: 00000
Purpose of Disbursement: Printing
Activity or Event Identifier: Johnson / Smith Posters
Category/Type: 004
Allocated Activity or Event: [ ] Administrative [ ] Fundraising [X] Exempt [ ] Voter Drive [ ] Direct Candidate Support
Allocated Activity or Event Year-To-Date: 6,000.00
Date: 09 / 01 / 2014
FEDERAL SHARE: 4,000.00 + NON-FEDERAL SHARE: 2,000.00 = TOTAL AMOUNT: 6,000.00

SUBTOTAL of Allocated Federal and Non-Federal Activity This Page
FEDERAL SHARE: 7,000.00 + NON-FEDERAL SHARE: 4,000.00 = TOTAL AMOUNT: 11,000.00

TOTAL This Period (last page for each line only)(Federal share to 21(a)(i) and Non-Federal share to 21(a)(ii))
FEDERAL SHARE: 7,000.00 TOTAL AMOUNT: 11,000.00

TOTAL This Period for the Non-Federal Share NON-FEDERAL SHARE: 4,000.00

3 Although AO 1995-22 is no longer applicable to national party committees as of 2002, it may still apply to state, district and local party committees.

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ALLOCATION OF REBATE (H4) (METHOD 1)

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): Acme Office Supplies
Mailing Address: 111 Paddenpencil St.
City: City State: ST Zip Code: 00000
Purpose of Disbursement: Rebate
Activity or Event Identifier:
Category/Type: 001

Allocated Activity or Event: [X] Administrative [ ] Fundraising [ ] Exempt [ ] Voter Drive [ ] Direct Candidate Support
Allocated Activity or Event Year-To-Date: 6,600.00
Date: 03 / 15 / 2014

FEDERAL SHARE	+	NON-FEDERAL SHARE	=	TOTAL AMOUNT
-144.00		-256.00		-400.00

RECEIPT OF REBATE (A/LINE 15) (METHOD 2)

SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one) PAGE 1 OF 1
[ ] 11a [ ] 11b [ ] 11c [ ] 12 [ ] 13 [ ] 14 [X] 15 [ ] 16 [ ] 17

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NAME OF COMMITTEE (In Full): Freedom Party State Committee

A. Full Name (Last, First, Middle Initial): Acme Office Supplies
Mailing Address: 111 Paddenpencil St.
City: City State: ST Zip Code: 00000
FEC ID number of contributing federal political committee: C
Name of Employer:
Occupation:
Receipt For: [ ] Primary [ ] General [ ] Other (specify)
Aggregate Year-to-Date: 400.00

Date of Receipt: 03 / 15 / 2014
Amount of Each Receipt this Period: 400.00
Rebate.

NONFEDERAL TRANSFER (H4) (METHOD 2)

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): Freedom Party State Committee Nonfederal Account
Mailing Address: 111 Politics St.
City: City State: ST Zip Code: 00000
Purpose of Disbursement: Transfer of Nonfederal Share of Rebate
Activity or Event Identifier: (See Schedule A)
Category/Type: 001

Allocated Activity or Event: [X] Administrative [ ] Fundraising [ ] Exempt [ ] Voter Drive [ ] Direct Candidate Support
Allocated Activity or Event Year-To-Date: 6,600.00
Date: 03 / 15 / 2014

FEDERAL SHARE	+	NON-FEDERAL SHARE	=	TOTAL AMOUNT
256.00		0.00		256.00

10. PROHIBITED IN-KIND DONATIONS FOR ALLOCABLE ADMINISTRATIVE AND FUNDRAISING ACTIVITIES

While contributions from corporations, labor organizations and federal government contractors to a party committee's federal account are prohibited under federal law, some states permit such donations for nonfederal activity. If that is the case, donations from corporations, labor organizations and federal government contractors may be accepted into 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.[4]

Advance Payment of Federal Share

To avoid the receipt of a prohibited contribution, the federal 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.

4 In AO 1992-33, the Commission explained how a party committee can legally accept an in-kind donation from a prohibited source in connection with an allocable administrative or fundraising activity. Note that the AO explicitly did not apply this allowance to the acceptance by nonfederal accounts of in-kind corporate donations for voter drive activity, direct candidate support, or exempt activities. 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.