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March 21, 2013

Laura Sinram, Senior Campaign Finance Analyst
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Amended 12 Day Pre-General Report (10/1/2012-10/17/2012), received 11/5/2012

Dear Ms. Sinram:

The Commissions preliminary review of the report referenced above raised questions concerning certain information contained in the report. We have addressed the questions below and have disclosed any changes or clarifications in the amendment filed on 3/21/13.

1. Schedule A of our report discloses a contribution that does not exceed the limit. We have provided clarification as to why these affiliated relationships do not exist between the local party committee FEC ID #C00402826 and the Democratic State Central Committee of CA Federal FEC ID #C00105668.

LEGAL SUMMARY

The Federal Election Campaign Act provides that political committees established, financed, maintained, or controlled by the same person or group of persons are affiliated for contribution limitation purposes.(2U.S.C.441a(a)(5); 11 CFR 100.5(g)(2) and 110.3(a)(1)). By regulation the FEC has provided that political committees which are affiliated with other committees for contribution limitation purposes must disclose those committees on its Statement of Organization as "affiliated." (11 CFR 102.2(b).)

Commission regulations establish a presumption of affiliation for contribution limitation purposes when one party committee has "established, financed, maintained or controlled" another party committee. (11CFR 110.3(b)(3).) For the presumption to apply the FEC must show as a threshold matter that one party committee has in fact "established, financed, maintained or controlled" another party committee. Without first establishing one of these four factors the presumption simply does not arise.

The Act, FEC regulations and FEC advisory opinions do not define what activities would constitute "establish, finance, maintain or control."

The FEC regulations provide that, if the presumption is established, the party committee may rebut it by showing (i) the political party committee in question does not receive funds from any other political committee established, financed, maintained, or controlled by another party unit and (ii) the political party committee does not make its contributions in cooperation, consultation or concert with, or at the request or suggestion of any other party unit or political committee established, financed, maintained, or controlled by another party unit. (11 CFR 110.3(b)(3).)

Thus, party organizations may easily rebut the presumption by showing no funds have flowed between them and they don't make contributions in concert. However, the mere fact that funds may have been received between party organizations does not give rise to presumption of "financing" as that term is used in Section 110.3(b). Stated

A-G79 @B9CI G'H9LH'fl 97 : cfa ' - - Ł

another way, the FEC must first prove that one organization "finances" another in order to create the presumption of affiliation, but merely receiving funds is not enough to meet that initial burden.

As explained more fully below, because none of the party committees within California "establish, finance, maintain or control" any other party committees, the presumption of affiliation never arises.

The Democratic State Central Committee is authorized by its by-laws to charter organizations who include the words "Democratic Party" in their name and who directly or indirectly solicit funds under the representation that the funds are being solicited for the use of the Democratic Party. In short, the State Committee merely authorizes the use of the term "Democratic" by other local organizations which wish to represent to the public they are soliciting funds for use by the Democratic Party. Beyond that, the State Committee has no say in establishing, financing, maintaining or controlling those local organizations. In fact, the Democratic State Central Committee is prohibited from engaging in any activities that would directly or indirectly result in it establishing, financing, maintaining, or controlling any chartered organization.(See CDP Bylaws, Article X, Section 2(b).)

2. Schedule A supporting Line 12 discloses a transfer(s)-in from Democratic Congressional Campaign Committee and Democratic National Committee. The transfer(s)-in were not used for expenses disclosed on Schedule B supporting Line 30(b) for doorhangers Vol.distrib.Obama,Pres;Feinstein,US Senate, FEA 100% Federal: bumper stickers, mail exempt act RuizCD36Gen, mail vol.distrib.-TakanoCD41Gen, mail vol.distrib. BrownleyCD26Gen, mail -vol.distrib.McNerneyCD09Gen, mail-vol.distrib. RuizCD36Gen, mail-vol.procesd. BeraCD07Gen, mail-vol.procesd. BrownleyCD26Gen, mail vol.procesd. PetersCD52Gen and postage-vol.distrib.McNerneyCD9Gen). The exempt activity noted above was distributed by volunteers with no public advertising, with funds permitted under the Act and none of the funds were designated for a particular candidate.

If you have any further questions, please contact me at (916) 442-5707.

Sincerely,

Katherine Moret
Treasurer

cc: Shawnda Westly, Executive Director