



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

March 23, 2005

Earl Scales, Treasurer
Democratic Executive Committee of Florida
214 South Bronough Street
Tallahassee, FL 32302

**Response Due Date:
April 22, 2005**

Identification Number: C00005561

Reference: September Monthly Report (8/1/04-8/31/04)

Dear Mr. Scales:

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 12 of your report discloses \$327,514 in "Deposits" for "Contribution" and "Transfer." Please provide a Schedule A to support each individual entry on Line 12 of the Detailed Summary Page, including the source of these deposits. All transfers from affiliates received by your committee must be itemized on Schedule A regardless of the amount. 2 U.S.C. §434(b)(3)(D)

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-Schedule B supporting Line 30(b) of your report discloses a payment(s) to FDP Payroll for "Payroll." Please be advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity or activities in connection with a Federal election must not be allocated between or among federal and non-federal accounts. Rather, only federal funds may be used. Further, the Commission concluded in Advisory Opinion 2003-11 that amounts spent for employee-specific "fringe benefits," consisting of health insurance, disability insurance, life insurance, retirement benefits and payroll taxes, fall into the category of compensated time.

Any reimbursement from your committee's non-federal account for this payment is not permissible and must be returned. Although the Commission may take further legal action regarding this improper allocation activity, your prompt action will be taken into consideration.

-Your committee states in a memo text that "Staff salaries (for August pay periods) in the amount of \$16,462 were inadvertently paid from the Non Federal Account. This amount will be transferred as of 9/21/2004 from the Federal Account to cover employees who worked over the 25% threshold for Federal Activity." However, your October Quarterly Report (9/1/04-9/30/04) does not appear to disclose the transfer to your Non Federal Account.

Please be advised that until your federal account reimburses your non-federal account, you should disclose the amount paid by the non-federal account as a debt on Schedule D. You are also advised that 11 CFR §102.5 prohibits a non-federal account from financing activity in connection with federal elections. Since the debts owed to your non-federal account appear to relate to activity conducted in connection with federal elections, please provide the date(s) when the original activity was conducted by the non-federal account. Any payments on debts related to the election or defeat of federal candidates should be allocated accordingly and disclosed as either in-kind contributions on Schedule B supporting Line 23, or as independent or coordinated party expenditures on Schedule E or F supporting Line 24 or 25. 11 CFR §§104.3(b)(3) and 106.1

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Although the Commission may initiate legal action regarding the activities conducted by your non-federal account, prompt repayment of the debt and any clarifying information that you provide will be taken into consideration.

-Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "Insurance" and "Salary." Please be advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity or activities in connection with a Federal election must not be allocated between or among federal and non-federal accounts. Rather, only federal funds may be used. Further, the Commission concluded in Advisory Opinion 2003-11 that amounts spent for employee-specific "fringe benefits," consisting of health insurance, disability insurance, life insurance, retirement benefits and payroll taxes, fall into the category of compensated time.

Any reimbursement from your committee's non-federal account for this payment is not permissible and must be returned. Although the Commission may take further legal action regarding this improper allocation activity, your prompt action will be taken into consideration.

-Schedule H4 of your report discloses a payment(s) for "Polling." Please be advised that 11 CFR §100.24(b) defines as Federal Election Activity, Voter identification, Generic Campaign and Get-out-the-vote activities conducted in connection with an election in which one or more candidates for Federal office appear on the ballot. Furthermore, the costs for these types of Federal Election Activity must either be paid with federal funds or allocated between federal and Levin funds. It appears that you have allocated these costs between federal and non-federal funds. Any reimbursement from your committee's non-federal account for Federal Election Activity costs is not permissible and must be returned. 11 CFR §§300.32 and 300.33

Please inform the Commission of your corrective action immediately or provide clarifying information regarding this activity. Although the Commission may take further legal action regarding this apparent prohibited activity, your prompt action will be taken into consideration.

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-Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "Signs," "Video," and "Printed Materials." 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, 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.

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.

-Your report disclosed a category of financial activity that has been reflected on the wrong line of the Detailed Summary Page. Contributions from other political committees should be properly disclosed on a separate Schedule A, supporting Line 11(c) of the Detailed Summary Page. Please refer to the instructions for each line when determining the proper categorization(s) for your next filing.

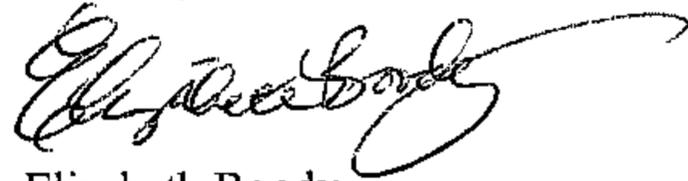
Unlike previous election cycles, you will not receive an additional notice from the Commission on this matter. Adequate responses received on or before this date will be taken into consideration in determining whether audit action will be initiated. **Requests for extensions of time in which to respond will not be considered.** Failure to provide an adequate response by this date may result in an audit of the committee.

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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) 694-1686.

Sincerely,



Elizabeth Boody
Campaign Finance Analyst
Reports Analysis Division

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Contributor Name	Date	Amount	Report
Campaign Account of Robert Wexler	08/10/04	\$14,000.00	2004 September Monthly

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