



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

August 5, 2005

Michael Lux, Treasurer
21st Century Democrats
1311 L Street, NW #300
Washington, DC 20005

**Response Due Date:
September 6, 2005**

Identification Number: C00230342

Reference: May Monthly Report (4/1/05-4/30/05)

Dear Mr. Lux:

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 17 of your report discloses a payment from Names in the News. It appears this receipt was for goods and/or services provided by your committee. Pursuant to Advisory Opinion 1979-18, the sale/purchase price paid to a political committee could involve the receipt of a contribution from a purchaser if the purchase price exceeds the "usual and normal charge". The term "usual and normal charge" for goods is defined as the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution. Examples of goods and services include equipment, supplies, personnel, advertising services, membership lists, and mailing lists. 11 CFR §100.52(d)(1) and (2)

Please clarify whether your committee assessed the usual and normal charge for the goods and/or services you provided and explain the steps your committee took in determining the amount charged. If your committee provided the goods and/or services at more than the usual and normal charge, the difference between the two is considered to be an in-kind contribution received by your committee from a corporation and is prohibited subject to the limits set forth at 2 U.S.C. §441b(a)

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Third, if you receive contributor information after the contribution(s) has been reported, you shall either a) file with your next regularly scheduled report, an amended memo Schedule A listing all the contributions for which additional information was received; or b) file on or before your next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s). (11 CFR §104.7(b)(4))

Please provide the missing information or a detailed description of your procedures for requesting the information. For more information on demonstrating "best efforts," please refer to the Campaign Guide.

-Schedule D of your report discloses a \$ 1,971.74 debt to your non-federal account for what appears to be the federal account's share of an in-kind corporate contribution(s) to the non-federal account. Pursuant to Advisory Opinion 1992-33, the Commission concluded that a committee may accept corporate in-kind contributions as long as the federal share of goods and services is paid or transferred to the non-federal account *in advance or upon receipt* of the acceptance of the corporate in-kind donations by the federal account. It appears that the federal share of the in-kind donation(s) received by your committee was not transferred to the non-federal account in advance or upon receipt of the acceptance of the corporate in-kind donation(s).

Please clarify the procedures that you are currently using regarding the acceptance of corporate in-kind contributions by the federal account and amend your report if necessary.

-Schedule H3 of your report discloses a transfer(s)-in from "Service Employees Int'l Union In-Kind." Please note that 11 CFR §§106.6(e) and 106.7(f) permit a committee to pay the entire amount of an allocable expense from its federal account and transfer from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense. If "Service Employees Int'l Union In-Kind" is not a non-federal account of your committee, such a transfer(s) is prohibited.

If the transfer(s) in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information. If you have received a prohibited transfer(s), you must transfer-out the impermissible funds to an account not used to influence federal elections or refund the full amount to the donor.

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of your check for the transfer-out or

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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 prohibited transfers, prompt action by your committee to transfer-out or refund the amount will be taken into consideration.

-Your report does not include a Schedule H1 to disclose the ratio for the allocation of certain costs. For State, District and Local party committees, Schedule H1 must be filed in the first report each calendar year that discloses an allocable disbursement and for Separate Segregated Funds and Non-connected committees, in each report that discloses an allocable disbursement for administrative expenses, generic voter drives or public communications that refer to any political party, but do not refer to any clearly identified candidates.

Further, for State, District and Local party committees, all shared administrative, generic voter drive and exempt activity costs incurred during the two-year cycle must be allocated according to the appropriate fixed ratio, unless the federal account elects to pay a higher percentage of its cost. For Separate Segregated Funds and Non-connected committees, administrative expenses, generic voter drive costs and expenses related to public communications referencing any political party committee (but no clearly identified candidates) must be allocated according to a 50% flat minimum federal percentage unless the federal account elects to pay a higher cost. 11 CFR §106.7(d)(2), (d)(3) and 11 CFR §§104.10(b)(1) and 106.6(c)

-Schedule B discloses an expenditure(s) for "Direct Mail Costs," "Direct Mail Production," and "Telemarketing." If a portion or all of these expenditures were for public communications (as defined by 11 CFR §100.26) and voter drive activity (under 11 CFR §106.6(b)(2)(i)) containing express advocacy as defined under 11 CFR §100.22, this would constitute an in-kind contribution or an independent expenditure and should be properly disclosed on a Schedule B or E supporting Line 23 or 24 as appropriate. Public communications and voter drive activity that refer to a clearly identified Federal candidate, but that do not expressly advocate the election or defeat of that candidate should be reported on Schedule B for Line 21(b) of the Detailed Summary Page. Please clarify whether this activity contained express advocacy and amend your report to properly disclose this activity, if necessary.

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