



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

November 15, 2006

Drew Smith, Treasurer
Democratic Party of Arkansas
1300 West Capitol Avenue
Little Rock, AR 72201

**Response Due Date:
December 16, 2006**

Identification Number: C00024372

Reference: October Monthly Report (9/1/06-9/30/06)

Dear Mr. Smith:

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:

-The beginning cash balance of this report should equal the ending balance of your September Monthly Report (8/1/06-8/31/06). Please clarify this discrepancy and amend any subsequent report(s) that may be affected by this correction.

-The totals listed on Lines 7, 17, 18(a), 18(c), 20, 21(a)(i), 21(a)(ii), 21(b), 21(c), 30(a)(i), 30(a)(ii), 30(c), 31 and 32, Column B of the Summary and Detailed Summary Page(s) appear to be incorrect. Please be advised that you should add the "Calendar Year-to-Date" total from your previous report to the current "Total This Period" figure from Column A to derive the correct Column B totals. Please amend your report and any subsequent reports that may be affected by this correction.

-Schedule A supporting Line 11(a)(i) of your report discloses a negative entry for the apparent refund of a contribution originally received by your committee. Please be advised that if your committee wrote a refund check from your account, this disbursement should be disclosed on Schedule B supporting Line 28(a) of the Detailed Summary Page. Negative entries on Schedule A should only be used to disclose voided checks that were not cashed or cleared by a bank. This method of reporting would clarify for the public record the total amount of receipts/disbursements and more

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accurately disclose the cash-on-hand amount. Please provide clarifying information as to the nature of the transaction, and if necessary amend your report(s) to properly disclose this activity.

-Schedule B of your report discloses reimbursements to individuals for "stakes -straps etc for signs." Please be advised that when itemizing reimbursements to individuals for goods or services, if the payment to the original vendor aggregates in excess of \$200 or more in a calendar year, a memo entry including the name and address of the original vendor, as well as the date, amount and purpose of the original purchase must be provided. Please amend your report to include the missing information and clearly identify on the Schedule B, which reimbursement each memo entry relates to. If itemization is not necessary, you must indicate so in an amendment to this report. 11 CFR §300.36(b), and Advisory Opinions 1992-1 and 1996-20, footnote 3

-On Schedule H4 supporting Line 21(a) you disclose negative disbursements to "Gary Moody" and "Wright, Lindsey & Jennings, LLP" totaling \$3,274.17 for apparent refunds or rebates of allocated expenditures. However, you also disclose receipts on Schedule A supporting Line 15 from "Gary Moody" and "Wright, Lindsey & Jennings, LLP" totaling \$3,274.17 which appear to be duplicate refunds or rebates.

Please be advised 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.

-On Schedule H4, your allocated activity or event year-to-date total calculations for the Administrative category are incorrect. Allocated activity or event year-to-date totals for administrative, voter drive, exempt activity costs and expenses for public communications made by PACs referencing only political parties are derived by aggregating all disbursements during the calendar year for each separate category. Allocated activity or event year-to-date totals for fundraising and direct candidate support activities are derived by aggregating all disbursements during the calendar year within a specific event. These should be calculated by adding the latest disbursement for a category or event to the previous event year-to-date total for that category or event. This running

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event year-to-date total should be disclosed after each disbursement is listed. Please amend your report by providing the correct event year-to-date totals.

-On Schedule(s) H4 supporting Line(s) 21(a) of the Detailed Summary Page, you have not included the full name and/or mailing address for the payment made to "NAACP - Pinebluff" and "Amy R. Kelly." Please amend your report accordingly.

-Please amend your report by providing the purpose for each disbursement itemized on Schedule(s) H4 supporting Line(s) 21(a).

-Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule(s) H4 of your report to clarify the following description(s): "Unassigned Charges." For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

-Please clarify all expenditures made for "banquet," "catering for tailgate party," "fee for tailgate party," "fee tailgate party," "Food for Football Watch Party," "hotdogs drinks etc for tailgate party," "Tailgate Fees," "Tailgate party" and "UAPB Tailgate" on Schedule H4. If a portion or all of these expenditures were made on behalf of specifically identified federal candidates, this amount should be disclosed on Schedules B, E, or F supporting Lines 23, 24, or 25 and include the amount, name, address and office sought by each candidate. 11 CFR §§104.3(b) and 106.1

Alternatively, if the payment(s) on Schedule H4 is associated with fundraising activity conducted for your committee's federal and non-federal accounts, it must be allocated according to the funds received method and the ratio reflected on Schedule H2. Further, it must be categorized as a fundraising activity on Schedule H4. Please provide clarifying information regarding the nature of this transaction(s) and amend your report(s) as appropriate.

-Schedule H4 of your report discloses reimbursements to individuals for "telephone reimb," "UAPB Tailgate," "Tailgate party" and "Cell Phone." Please be advised that when itemizing reimbursements to individuals for goods or services, payment to the original vendors must be itemized as memo entries regardless of amount. Each memo entry must include the name and address of the original vendor, as well as the date, amount and purpose of the original purchase must be provided. Please amend your report to include the missing information and clearly identify on the Schedule H4, which reimbursement each memo entry relates to. 11 CFR

§§104.10 and 104.17, and Advisory Opinions 1992-1 and 1996-20, footnote 3

-Schedule H5 of your report discloses a \$180,304.00 transfer(s)-in of Levin funds to your federal account for Voter ID activity. However, a Schedule L-B was not filed to disclose the transfer(s)-out of Levin funds for this activity. Please amend your report to clarify this apparent discrepancy.

-Schedule H5 of your report discloses "Democratic Party Non Fed Levin" as a name of account for your Levin funds, which appears to be an account that functions as both a non-federal account and a Levin account. Pursuant to 11 CFR §300.30(c)(3)(ii), if an account that functions as both a non-federal account and a Levin account is used, you must demonstrate through a reasonable accounting method approved by the Commission that whenever a disbursement of Levin funds is made, you have received sufficient contributions or Levin funds to make such a disbursement. Please provide clarifying information regarding your accounting method. Please note that it may be necessary to petition the Commission in the form of an Advisory Opinion request.

-Schedule H6 of your report discloses a voided or returned check(s) for an allocable expenditure(s) or reimbursement(s) made to an individual(s) during this or previous reporting periods where an adequate explanation has not been provided. Please clarify if and when this check(s) was reissued. If this check(s) was not reissued, please be advised that this may result in an in-kind contribution received by your committee from this individual(s) and should be reported on Schedules A and H6. Please amend your report to provide further clarification regarding this activity.

-Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule(s) H6 of your report to clarify the following description(s): "GOTV" and "voter id." For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

-On Schedule(s) H6 supporting Line(s) 30(a) of the Detailed Summary Page, you have not included the full name and/or mailing address for the payment made to Robynne Carlson. Please amend your report accordingly.

-Schedule A supporting Line 12 discloses a transfer(s)-in from the Democratic National Committee. Schedule H6 supporting Line 30(a) reflects payments for Federal Election Activity. Please be advised that under 11 CFR §300.34, a state, district or local party committee must not use any Federal funds transferred to it from a national party committee or

any other State, district or local party committee, as the Federal component of an expenditure or disbursement for Federal Election Activity. Furthermore, your committee must itself raise the Federal component of expenditure or disbursement allocated between Federal and Levin funds.

Please clarify whether the transfer(s)-in was used for the subsequent payments for Federal Election Activity. In addition, please clarify the procedures you are currently using to ensure that Federal funds transferred to your committee from national, state, district and local party committees are not being used for Federal Election Activity.

-On Schedule H6, your allocated activity or event year-to-date total calculations for the Voter ID category(s) are incorrect. Allocated activity or event year-to-date totals for this activity should be calculated by adding the latest disbursement for a category to the previous event year-to-date total for that category. This running event year-to-date total should be disclosed after each disbursement is listed. Please amend your report by providing the correct event year-to-date totals.

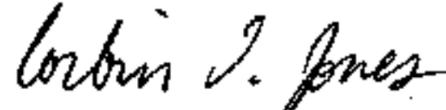
-You have received a contribution from Nix, Patterson & Roach, L.L.P., which appears to be an unincorporated proprietorship or partnership. Generally, these types of contributions are to be attributed to each person based on their percentage of ownership in the firm. Each person who has contributed in excess of \$200 since January 1 should be identified by name, address, occupation, name of employer, amount of contribution, and aggregate total on Schedule A. 11 CFR §110.1(e) Please amend your report by providing the omitted information.

Please note, 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. 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) 694-1177.

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Sincerely,



Corbin T. Jones

Campaign Finance Analyst

Reports Analysis Division

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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 23a OF FORM 3X
NAME OF COMMITTEE (in Full) Freedom Party State Committee			
A. Full Name (Last, First, Middle Initial) Acme Office Supplies		Allocation Activity or Event: <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Fundraising <input type="checkbox"/> Escort <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support	
Mailing Address 111 Paddockland St. City ST 00000		Allocated Activity or Event Year-To-Date 6,600.00	
Purpose of Disbursement: Rebate		Date: 03 15 2004	
Activity or Event Identifier: 001		Category Type	
FEDERAL SHARE: -144.00		NON-FEDERAL SHARE: -256.00	
TOTAL AMOUNT: -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: PAGE 1 OF 1 (check only box)
Any information copied from such Reports and Statements may not be valid or used by any person for the purpose of soliciting contributions or for campaign purposes, other than using the name and address of any political committee to solicit contributions from such contributors.			
NAME OF COMMITTEE (in Full) Freedom Party State Committee			
Full Name (Last, First, Middle Initial) Acme Office Supplies		Date of Receipt 03 01 2004	
Mailing Address 111 Paddockland St. City ST 00000		Amount of Each Receipt (in Pled) 400.00	
REC ID number of contributing federal political committee: C		Rebate	
Name of Employer Occupation		Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	
Aggregate Method-Date 400.00		Amount of Each Receipt (in Pled) 400.00	

NONFEDERAL TRANSFER (H4) (METHOD 2)

SCHEDULE H4 (FEC Form 3X) DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE			PAGE 1 OF 1 FOR LINE 23a 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		Allocation Activity or Event: <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Fundraising <input type="checkbox"/> Escort <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support	
Mailing Address 111 Politics St. City ST 00000		Allocated Activity or Event Year-To-Date	
Purpose of Disbursement: Transfer of Nonfederal Share of Rebate (See Schedule A)		Date: 03 15 2004	
Activity or Event Identifier: 001		Category Type	
FEDERAL SHARE: 756.00		NON-FEDERAL SHARE: 0.00	
TOTAL AMOUNT: 756.00			

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 non-federal 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: 64 percent federal; 36 percent nonfederal.

Reporting Method 1 illustrates how this rebate would be reported according to the method approved in Advisory Opinion (AO) 1995-22. 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 21 a(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

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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.

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.

In AO 1992-33, the Commission explained how a committee can legally accept an in-kind donation from a prohibited source in connection with an allocable administrative or fundraising activity. Note that the Commission has not addressed the receipt of in-kind donations from prohibited sources for the other types of allocable expenses (i.e., generic voter drives and candidate support activity).

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.

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.

Adjustments

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

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

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