



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 5, 2008

RQ-2

Mr. Michael A. Avella, Treasurer
New York Republican Federal Campaign Committee
315 State Street
Albany, NY 12210

Response Due Date:
December 8, 2008

Identification Number: C00055582

Reference: October Monthly Report (9/1/08-9/30/08)

Dear Treasurer:

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. **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 9 items:

1. The beginning cash balance of this report should equal the ending balance of your September Monthly Report (8/1/08-8/31/08). Please clarify this discrepancy and amend any subsequent report(s) that may be affected by this correction.
2. The totals listed on Lines 6(c), 18(a), 18(c), 19, 21(b), 21(c), 30(b) and 30(c), 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.
3. Your calculations for Line 8 appear to be incorrect. Cash-on-hand at the close of the current reporting period should always equal the closing calendar year-to-date cash-on-hand amount. Please provide the corrected total on the Summary Page.
4. Schedule B supporting Line 21(b) of your report discloses a payment(s) totaling \$7,627.07 for "postage production for direct". Expenditures and disbursements for public communications (as defined under 11 CFR

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§100.26) 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).

Further, 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 clarify if this activity meets the definition of Federal Election Activity or if it contains express advocacy and amend your report to properly disclose this activity, if necessary.

5. On Schedule H2, you disclose the ratio for "DIRECT MAIL PROJECT 308" to be new; however, Schedule H2 of your May Monthly Report disclosed a ratio for this activity/event which is identical the one given in this report. Please amend your report to clarify this discrepancy. 11 CFR §§104.10 and 104.17

6. Schedule H2 indicates the allocation ratio for "GOLF OUTING 8/11/08" was revised during the reporting period. Please provide the date of the fundraising program or event. In the case of a telemarketing or direct mail campaign, the "date" is the last day of the telemarketing campaign, or the day on which the final direct mail solicitations are mailed. 11 CFR §§106.6(d)(2) and 106.7(d)(4)(ii) In the event that an excessive non-federal transfer was received, the excessive amount should be transferred back to your non-federal account.

7. Schedule H2 of your report indicates that your committee participated in "DIRECT MAIL PROJECT 308" activities or events during the reporting period. However, there are no corresponding disbursements reflected on your Schedule H4. Note that you need not include activities on Schedule H2 if there are no corresponding payments made for the activity during the reporting period. If any disbursements were incorrectly reported, you should file an amended Schedule H4 with the correct activity or event identifier, or provide clarifying information regarding the activities on Schedule H2.

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8. 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): "golf 08." For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

9. Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "401k payment," "health insurance," "payroll taxes," "salary," "salary 9/1-9/12," "Salary 9/1-9/12," "salary 9/1/08-9/12/08," "salary 9/15-9/26" and "Salary 9/16-9/26." 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 (FEA) 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.

Please clarify whether this activity is for employees who spent 25% or less of their time during the month(s) referenced above on FEA or activities in connection with a Federal election. If this is not the case, 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 any improper allocation 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

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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) 694-1141.

Sincerely,

Debbie Chacona

For: Daniel T. Buckley
Senior Campaign Finance Analyst
Reports Analysis Division

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