



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

April 1, 2005

Deborah Trudell, Treasurer
Nevada State Democratic Party
409 Horn Street
Las Vegas, NV 89107

Response Due Date:
May 2, 2005

Identification Number: C00208991

Reference: Amended October Monthly Report (9/1/04 – 9/30/04), received 3/22/05

Dear Ms. Trudell:

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 of your report (see attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. The Act prohibits a committee from receiving contributions from another political committee or a person in excess of \$5,000 per calendar year. 2 U.S.C. §441a(f)

The Commission notes your refund of the excessive contribution(s) disclosed on your 2005 March Monthly Report. Although the Commission may take further legal action concerning the acceptance of an excessive contribution(s), your prompt action in refunding or transferring-out the contribution(s) will be taken into consideration.

-Schedule A supporting Line 15 of your report discloses a payment(s) from a federal candidate committee(s) for goods and/or services provided by your committee. 11 CFR §100.52(d)(1) states that "...the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution." Examples of goods and services include equipment, supplies, personnel, membership lists and mailing lists. 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". The

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usual and normal charge for services is defined as "...the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered." 11 CFR §100.52(d)(2)

Please clarify whether your committee assessed the usual and normal charge for the goods and/or services you provided to the federal candidate committee(s) and unregistered committee(s) and explain the steps your committee took in determining the amount(s) charged. If your committee provided the goods and/or services at less than the usual and normal charge, the difference between the two is considered to be an in-kind contribution by your committee to the federal candidate committee(s) and is subject to the limits set forth at 2 U.S.C. §441a. (11 CFR §100.52(d)(1))

-Schedule A supporting Line 15 of your report discloses a payment(s) from an organization(s) which is not a political committee(s) registered with the Commission (see attached). It appears the receipt(s) 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)

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(s) received by your committee from an unregistered organization(s) and is prohibited subject to the limits set forth at 2 U.S.C. §§441a(f) and 441b or 11 CFR §102.5(b).

-Schedule A supporting Line 12 of your report discloses transfers from the "Democratic National Committee" for "Joint Fundraising proceeds." However, the Democratic National Committee is not a joint fundraising committee. If these transfers represent your committee's share of net proceeds as a result of joint fundraising efforts, please amend your report to clearly identify the name of the joint fundraising committee, and provide supporting memo Schedule A's as necessary.

-Schedule B supporting Line 21(b) of your report discloses a payment(s) totaling \$3,532.77 for "Telemarketing fees." Expenditures and disbursements for public communications (as defined under 11 CFR §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 amend your report to properly disclose this activity or provide clarifying information.

-Schedule B supporting Line 30(b) of your report discloses a payment(s) for "Hispanic media/voter reg" and "Ad/canvassers" which is categorized as Federal Election Activity and therefore, may require the disclosure of the candidate(s) this activity should be attributed to. 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).

Further, please be advised that 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 amend your report to properly disclose this activity or provide clarifying information.

-On Schedule L-B supporting Line 5 of the Schedule L Aggregation Page for the "Non-Federal Levin" account, you have failed to include the purpose of disbursement for the payment made to "AMS Communications, Inc." Please amend your report to include this missing information.

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-Schedule H2 of your report indicates that your committee participated in "June Clinton Event" 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.

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. 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) 694-1148.

Sincerely,

Brandis L. Zehr

Brandis L. Zehr

Campaign Finance Analyst

Reports Analysis Division

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Excessive Contribution from a Committee

Contributor Name	Date	Amount	Report
American Federation of Teachers AFL-CIO Committee on Political Education	1/7/2004	\$5,000.00	2004 February Monthly
American Federation of Teachers AFL-CIO Committee on Political Education	9/13/2004	\$5,000.00	2004 October Monthly

Receipt from an Unregistered Committee

Name	Date	Amount
Democratic Legislative Caucus	9/10/04	\$1,147.67
Assembly Democratic Caucus	9/10/04	\$546.98

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