

This letter responds to Ms. Nicole Della Rocco s letter dated September 5, 2008 requesting a response to several expenditures on the amended April Quarterly Report (1/1/08 3/31/08) that were not reported as 48 hour notices. Following is our response:

1. Prior to receiving prior notices from Ms. Della Rocco and discussing the issue with her, we originally believed the expenditures were general in purpose, and did not consider them to be independent expenditures, because their purpose was entirely for direct-mail fundraising to proven commercial conservative fundraising lists chosen for their fundraising potential and not for their voting impact. The fundraising letters included content which contained some words of express advocacy. However, after our discussions with Ms. Della Rocco, we amended our April Quarterly Report (1/1/08 3/31/089) and re-categorized the expenses as independent expenditures. In any event, since the April quarterly reporting period had already passed, and since we amended the report to include the expenses as independent expenditures, we believed that since the expenditures were already disclosed in the amended April Quarterly Report, and there was no reason to file the 48 hour reports well after the period has passed.
2. Subsequently, we have filed 48 hour independent expenditure reports for all expenditures from April 1st through the current date.
3. As noted in a previous response, NCF expenses incurred for independent expenditures consist of mailings to a broad list of potential contributors covering the entire United States in a repetitive test and roll-out program devised by Response Dynamics. These mailings are fundraising letters for the general election that happen to include content that is express advocacy. Their overriding purpose (really, their entire purpose) is general fundraising for the general election.

In our view, characterization of these mailings as independent expenditures has the effect of greatly overstating and inflating the actual funds used by the organization to influence the election by express advocacy. In a discussion with the New York Times reporter Michael Lau, he offered the opinion to us to the effect that the FEC s reporting requirement of these entirely fundraising letters as independent expenditures has the affect of misleading the public into thinking that committees like NCF are making significant fulfillment expenditures when in fact all of the funds in the mailing program are simply being used for fundraising. We agree with that assessment. In the meantime, we have been contacted by reporter Thomas Edsall of the Huffington Post, whose original question for us was why the committee had reported, on the reports you are questioning, significant independent expenditures per the FEC forms but that he had not seen equal independent expenditure fulfillment. We explained to Edsall that the answer to his question was that your requirements had the effect of distorting the actual level of independent expenditure activity by lumping strictly direct-mail fundraising into that category where it contains words of express advocacy. Edsall seemed to agree with that assessment in a telephone discussion with James Lacy.

However as noted in points 1 and 2 above, we are complying with your request and have classified the expenditures as independent expenditures. And as of April 1st (as mentioned above), we have filed the 48 hour reports for all independent expenditures.
