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April 20, 2007

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Reports Analysis Division

Re: 30 Day Post-General Report (10/19/06-11/27/06) and Year End Report (11/28/26-12/31/06)

In response to your March 21, 2007, letters, we are making several responsive amendments to these reports and will file them by next week. We add the following narrative response regarding four particular matters raised in these letters.

First, although we have added the name of the Committee's Treasurer to each page of Schedule E supporting Line 24, the electronic signature provided on the cover page of every electronically filed report itself serves as a statement that all data within is true and accurate according to the best available data at the time the report is filed. Because the same Schedule E is also used separately as a 24 or 48 hour report as needed throughout a given election period, it is then that the requirement to electronically sign each page is required because there would otherwise be no such commitment shown to the public in a cover page.

Second, with respect to the entries for "Voter File Data" on the Year-End Report, we are checking further as to whether or not, and if so to what degree, that data was used in part in connection with the independent expenditures that were otherwise reflected on this report and the Post-General Report. We have ascertained that the voter files were purchased at least in part for other purposes unrelated to those independent expenditures. If an amendment is necessary, we will include that with the other amendments that we will be filing.

Third, we are amending the four cited entries on Schedule B of the Post-General Report other than "Fundraising Materials" to reflect that these involved only communications with members of CWA, the Committee's connected organization, as the similar entries on the Year-End Report that your letter questions already indicate.

Fourth, with request to the latter report's recorded disbursements that indicate payment for contact with the CWA restricted class, you request an explanation of the following regarding its "purpose": "the type of expense, the name, office sought, state, and district, if applicable; [sic] of each federal candidate identified in the communication to the restricted class (Advisory Opinion 2000-03)." We are amending the reports to reflect all of these disbursements on Line 29, as you separately request, but we do not believe that the additional information sought is required by the Act, the regulations or AO 2000-03.

That advisory opinion acknowledged that a political committee that was the separate segregated fund (SSF) of a Section 501(c)(6) membership organization could pay the costs of appearances by federal candidates before the organization's restricted class members and the SSF could expressly advocate the candidate's election and solicit members to contribute to the candidates.

The Commission advised that in these circumstances the SSF was acting on behalf of the organization, and the disbursements therefore were exempt from the Act's definitions of "contribution" and "expenditure." However, the Commission also stated that because the SSF would be the reporting entity, the reporting threshold for reports by a membership organization under 11 C.F.R. 104.6 did not apply, and the Commission cited instead the ordinary statutory and regulatory provisions governing a political committee's reporting, namely, 2 U.S.C. 434(b)(6)(B)(v) and 11 C.F.R.

104.3(b)(1)(ix)(B), which require that a committee report a disbursement's "purpose." The AO advised the inquiring SSF to "state the type of expense, the candidate making the appearance, and a statement that this is an expense for an internal communication to the members."

ETEXT ATTACHMENT

Even assuming that AO 2000-03 - - which the Commission has not since cited in any other advisory opinion or incorporated in its regulations - - reflects the Commission's current view, none of the costs incurred by the Committee that are reflected on its Year-End Report pertain to a candidate appearance before the restricted class, and even for that event this advisory opinion did not require identification of the state, district and office sought of any candidate. On its Year-End Report here, the Committee paid for salaries and the costs of written and oral communications to CWA's restricted class. The descriptions of the expense on that report already adequately describe the "type of expense" involved. They also fully conform with the Commission's recent guidance to political committees, including of course SSF's, which. States that the following entries "without more -- are sufficient: "Travel"; "Media"; "Printing"; "Phone Banks"; "Door-to-Door Get-Out-the-Vote"; and "Get-Out-the-Vote Phone Calls". "Statement of Policy: Purpose of Disbursement Entries for Filings With the Commission," 72 Fed. Reg. 887 (January 9, 2007). The Commission's Instructions for Schedule B require nothing more. And, even if the requirements of 11 C.F.R. 104.6 applied here, which they do not, they would require reports only of disbursements for express advocacy communications that are not primarily about other subjects. In fact, your request doesn't even mention express advocacy as a prerequisite to further itemization. Indeed, both the Commission's previous (June 2001) and revised (January 2007) Campaign Guide For Corporations and Labor Organizations describe AO 2000-03 in identical terms with respect to "a candidate appearance," and neither suggests that the advice in that opinion would pertain to other kinds of disbursements, and to our knowledge the Commission has never addressed the reporting issue with respect to other disbursements that involve membership outreach.

We add that this is the first time since AO 2000-03 was issued seven years ago that your office has requested such additional information from the Committee concerning a disbursement it made for membership outreach not involving a candidate appearance before the restricted class. But the Committee in previous reports has described similar disbursements for "member" outreach, see, e.g, 2004 Year-End Report, Schedule B, pg. 900, entry C, filed January 31, 2005, and your office has never asked for the information sought now or invoked that advisory opinion. And, when your office has inquired as to whether a particular "GOTV" payment involved an independent expenditure, in-kind contribution, public communication or voter drive activity, and we have responded that the payment instead was for a member communication, your office has accepted that explanation and our reporting of the disbursement without inquiring further. See, e.g., FEC RFAI re March 2005 Monthly Report (December 2, 2005), and CWA COPE PCC Miscellaneous Report (January 3, 2006).

We have relied upon these long-time reporting rules, practices and understandings. If there has been a change of reporting policy with respect to such matters, we respectfully suggest that the Commission inform the regulated community at large, or, as seems more appropriate, either issue a policy statement or undertake a rulemaking, in either case with appropriate public notice and opportunity to comment.

Thank you for your consideration.

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