

MISCELLANEOUS TEXT (FEC Form 99)

NAME OF COMMITTEE (In Full)

NY Republican Federal Campaign Committee

FEC IDENTIFICATION NUMBER

C00055582

Mailing Address 315 State St

City

Albany

State

NY

ZIP Code

12210-2001

Request for Additional Information dated March 7, 2023

Reference: October Monthly Report (09/01/2022 - 9/30/2022)

1. Schedule A, supporting Line 12 of your report discloses transfers, totaling \$14,400 from "Schmitt Victory Fund," that appear to be received through joint fundraising efforts. However, "Schmitt Victory Fund" is not disclosed as a joint fundraising representative on your Statement of Organization. Please amend your Statement of Organization to disclose the joint fundraising representative or amend your report to provide clarifying information.

Response: The Committee amended the Statement of Organization on March 22, 2023 to properly reflect the joint fundraising representative Schmitt Victory Fund.

2.Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule(s) H4 to clarify the following description(s): "Political Consultant - monthly retainer" and "NYC Coalitions - monthly retainer."

Response: The disbursements on Schedule H4 for Political Consultant - Monthly Retainer and NYC Coalitions - Monthly Retainer have been updated to clarify the reason for the disbursements. The updated description is Political Strategy Consulting - Monthly Retainer for both expenditures and are described in the amended October Monthly report.

3. Schedule H4 of your report discloses a payment(s) for Polling. Please be advised that 11 CFR Section 100.24(b) defines as Federal Election Activity, Voter identification, Generic Campaign and Get-out-the vote activities conducted in connection with an election in which one or more candidates for Federal office appear on the ballot. Furthermore, the costs for these types of Federal Election Activity must either be paid with federal funds or can be allocated between federal and Levin funds as long as the activity conducted does not refer to a clearly identified candidate for Federal office. It appears that you have allocated these costs between federal and non-federal funds. Any reimbursement from your committee's non-federal account for Federal Election Activity costs is not permissible and must be returned.

Response: Regarding item 3, on September 14, 2022, the Committee disbursed \$111,650.00 to McLaughlin and Associates for "polling". The expenditure was for invoices encompassing five separate polls conducted on March 8, 2022; April 11, 2022; May 24, 2022; June 16, 2022; and July 6, 2022. All of the polls were focused on the 2022 New York gubernatorial election.

The nature and purpose of the polls was administrative as they gauged voter sentiment regarding the Committee's endorsed gubernatorial candidate and the major issues of the gubernatorial campaign. The polls helped guide the Committee's decision making and allotment of resources. No personally identifiable information of poll participants was acquired for the purposes of voter identification and GOTV.

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Additionally, in April 2022, the New York Court of Appeals (the state' highest court) ruled that New York's then-enacted congressional and state senate districts were unconstitutional and ordered a special master to establish new congressional and state senate districts. This resulted in the bifurcation of New York's primary elections with statewide candidates, state assembly candidates and various local offices having their primaries on June 28, 2022, and congressional and state senate candidates having their primaries on August 23, 2022 (as ordered by the court). There was no Republican Primary for U.S. Senate on June 28, 2022, because only one candidate was designated for the Republican nomination and by law the name of such a candidate does not appear on the ballot (See N.Y. Elec. Section 6-120(2)). In sum, no federal candidates appeared on the ballot during the June 28, 2022, primary election. Four of the five polls funded by the expenditure at issue were utilized for the non-federal June 28, 2022, primary election and contained no questions or references to any federal candidates on the 2022 New York primary or general election ballots. Hence, these four polls did not constitute federal election activity.

The fifth poll funded by the expenditure at issue (conducted on July 6, 2022) contained a single question (out of 75+ questions) regarding a federal candidate who appeared on the 2022 New York general election ballot. The cost of that single poll for the Committee was \$29,800. Although the Committee does not agree with the apparent position of the Reports Analysis Division that polling necessarily constitutes a form of voter identification, thereby bringing polling within the definition of "federal election activity" provided in 11 C.F.R. Section 100.24, out of an abundance of caution, the Committee will make a remedial transfer of \$6,353.50 from its federal account to its non-federal account to cover the cost of that poll in the event the FEC determines the poll constitutes federal election activity. That remedial transfer was made April 11, 2023 and will be reported on Schedule H4 of the Committee May report.