

# PERKINS COIE LLP

607 FIFTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011  
TELEPHONE: 202 628-6600 • FACSIMILE: 202 434-1690

June 19, 2000

Lawrence M. Noble, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, N.W. - 6th Floor  
Washington, D.C. 20463

**Re: MUR 5005**

Dear Mr. Noble:

This is the response of Toltz 2000 and Karen Rokala, as Treasurer, (collectively "Respondents") to the complaint in the above-referenced matter. The complaint is baseless in all respects. The Commission should dismiss it promptly.

The circumstances of the complaint's filing provide a first insight into its lack of factual and legal merit. The general counsel of the National Republican Congressional Committee ("NRCC") filed this complaint on April 26, 2000, the day Ken Toltz's opponent formally announced his campaign for Congress. Its transparent intent was to tar Mr. Toltz with negative publicity on the day of his opponent's announcement. Its principal allegation was that Respondents had failed to itemize \$29,500 in PAC contributions on their April Quarterly Report.

However, had the NRCC bothered to review the public record before filing its complaint, it would have learned that Respondents did not fail to itemize the contributions in question, but rather had accidentally omitted two pages of its Schedule A through a collating error, a mistake which it promptly discovered on its own and corrected before receiving any request for additional information from the Commission. In fact, Respondents had filed an amended report on April 21, and it was available on the Commission's web site before the NRCC filed its complaint. Thus from the very moment of the complaint's filing, there remained no genuine controversy surrounding the April

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

JUN 19 5 01 PM '00

[04031-0069/DA003677.798]

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Quarterly Report, rendering the NRCC's complaint a purely political stunt. (See Attachment 1.)

This leaves the NRCC's claim of a "second possible violation" relating to the valuation of eight in-kind contributions. (Compl. at 2.) Not only does the NRCC fail to allege any facts demonstrating a violation; the actual facts show that none occurred.

First, the in-kind contributions relating to catering expenses were from individuals who had paid for the cost of food and beverages at events in their own home, and who had appropriately excluded the amounts spent in excess of those reported as in-home hospitality. See 11 C.F.R. 100.7(b)(6), 100.8(b)(7). The donors could have excluded greater amounts as in-home hospitality but chose not to do so, wishing their strong support of Mr. Toltz to be a matter of public record. For example, Robin Loup and her husband together spent a total of \$2,093.05 on food and beverages for a fundraiser at her home, of which Ms. Loup sought to report \$1,000 as a contribution from her to Mr. Toltz. (See, e.g., Attachment 2.)

The complaint regarding the remaining six in-kind contributions relies solely on the fact that the donors assigned round numbers to their values. Commission regulations require simply that in-kind contributions of goods be reported at "the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution," and that services be reported at "the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered." 11 C.F.R. 100.7(a)(1)(iii)(B).

The donors valued their goods and services at the prices they would have commanded at the time of the contributions, exactly as the regulations require. Respondents reasonably relied on their good-faith estimates. All of the goods provided were used household goods, which depreciate rapidly and for which it is often difficult to obtaining exact valuations. However, documentation accompanying the contributions shows that the donors were, if anything, overly conservative in their valuations. (See, e.g., Attachment 3 (used notebook computer originally purchased nearly three years ago for \$1,699.99 valued at \$1,000).)

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Finally, the complaint alleged the receipt of one excessive contribution. Respondents timely requested a reattribution pursuant to 11 C.F.R. 103.3(b)(3). (See Attachment 4.) When none was forthcoming, Respondents refunded the excessive portion. (See Attachment 5.)

The NRCC's complaint is not only without merit. It seeks to chill grassroots activity on the part of individuals who would simply make their homes and used personal property available to the campaign exactly as the law allows. The Commission should promptly dismiss it.

Very truly yours,



Brian G. Svoboda  
Counsel to Respondents

Attachments

Toltz2000  
271 W. Littleton Blvd.  
Littleton, CO 80120

RECEIVED  
FEDERAL ELECTION  
COMMISSION MAIL ROOM

APR 21 2000 9:58

1

April 21, 2000

Mary Beth DeBeauvoir  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

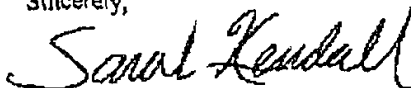
Dear Ms. DeBeauvoir:

Attached please find an amended April 15<sup>th</sup> first quarter FEC report for the Toltz2000 campaign. The campaign's FEC identification number is as follows: COO345595.

This amended report corrects an error in the original April 15 Quarterly report regarding itemized and un-itemized individual contributions. The summary page (page 1) has not changed. We have, however, resent the entire report in order to address the inaccurate print out of itemized receipts and in-kind contributions.

If there are any questions or concerns regarding this amendment, please contact me at the campaign office at 303-703-1734. Thank you for your assistance on this matter.

Sincerely,



Sarah Kendall  
Toltz2000  
Campaign Manager

Toltz2000 1: 271 W. Littleton Blvd., Englewood, CO 80120 • 303-703-1734 • fax 303-703-1738  
Paid for and authorized by Toltz2000

# **SCHEDULE A**

## **ITEMIZED RECEIPTS**

Use separate schedules for each category of the detailed Summary Page

37 of 44  
FOR LINE NUMBER  
11 (c)

Contributions from other political committees

Any information copied from such reports and statements may not be used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Reports and Statements may not be used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

| NAME OF COMMITTEE (in Full)   |  | C00345595                |                                    |
|---|--|--------------------------|------------------------------------|
| Full Name, Mailing Address and ZIP Code   | Washington Political Action Committee<br>444 N. Capital NW, #712 V<br>Washington DC 20001    | Name of Employer         | Date (month, day, year)<br>2/18/00 |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General |  | Occupation               |                                    |
| <input type="checkbox"/> Other (specify)  |  | Aggregate Year-to-Date   | \$500.00                           |
| Amounts of Each Receipt this Period   |  | \$500.00                 |                                    |
| Full Name, Mailing Address and ZIP Code   | Handgun Control Voter Education Fund<br>1225 Eye Street, NW Suite 100<br>Washington DC 20004 | Name of Employer         | Date (month, day, year)<br>2/15/00 |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General |  | Occupation               | 2/17/00                            |
| <input type="checkbox"/> Other (specify)  |  | Aggregate Year-to-Date   | \$2,500.00                         |
| Amounts of Each Receipt this Period   |  | \$1,000.00<br>\$1,500.00 |                                    |
| Full Name, Mailing Address and ZIP Code   | AMERIPAC<br>1341 G Street, NW Washington DC 20005  | Name of Employer         | Date (month, day, year)<br>3/3/00  |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General |  | Occupation               |                                    |
| <input type="checkbox"/> Other (specify)  |  | Aggregate Year-to-Date   | \$1,000.00                         |
| Amounts of Each Receipt this Period   |  | \$1,000.00               |                                    |
| Full Name, Mailing Address and ZIP Code   | UPCW<br>1775 K St. NW Washington DC 20008  | Name of Employer         | Date (month, day, year)<br>3/24/00 |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General |  | Occupation               |                                    |
| <input type="checkbox"/> Other (specify)  |  | Aggregate Year-to-Date   | \$5,000.00                         |
| Amounts of Each Receipt this Period   |  | \$5,000.00               |                                    |
| Full Name, Mailing Address and ZIP Code   | NARAL-PAC<br>1150 15th St. NW 7th Floor Washington DC 20005                                  | Name of Employer         | Date (month, day, year)<br>2/24/00 |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General |  | Occupation               |                                    |
| <input type="checkbox"/> Other (specify)  |  | Aggregate Year-to-Date   | \$1,000.00                         |
| Amounts of Each Receipt this Period   |  | \$1,000.00               |                                    |
| Full Name, Mailing Address and ZIP Code   | National Education Association<br>1201 18th St. NW Suite 420 Washington DC 20036             | Name of Employer         | Date (month, day, year)<br>2/8/00  |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General |  | Occupation               |                                    |
| <input type="checkbox"/> Other (specify)  |  | Aggregate Year-to-Date   | \$1,000.00                         |
| Amounts of Each Receipt this Period   |  | \$1,000.00               |                                    |

SUBTOTAL of Receipts This Page (optional) \_\_\_\_\_  
TOTAL This Period (last page this line number only) \_\_\_\_\_

# SCHEDULE A

## ITEMIZED RECEIPTS

Use separate schedule(s)  
for each category of the  
Detailed Summary Page

38 of 49  
FOR LINE NUMBER  
11 (c)

Contributions from other political

committees

Any information copied from such  
or for commercial purposes, other

reports and statements may not be sold or used by any person for the purpose of soliciting contributions  
an using the name and address of any political committee to solicit contributions from such committee.

| NAME OF COMMITTEE (In Full)  |                    | C00345595              |                         |
|--|--------------------|------------------------|-------------------------|
| Full Name, Mailing Address   | nd ZIP Code        | Name of Employer       | Date (month, day, year) |
| U.A. Political Education Com   | Washington DC 2000 | Occupation             | 2/29/00                 |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General            |                    | Aggregate Year-to-Date | \$1,000.00              |
| Amounts of Each Receipt this Period \$1,000.00   |                    |                        |                         |
| Full Name, Mailing Address   | nd ZIP Code        | Name of Employer       | Date (month, day, year) |
| AFSCME PAC   | 0 20030            | Occupation             | 3/23/00                 |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General            |                    | Aggregate Year-to-Date | \$5,000.00              |
| Amounts of Each Receipt this Period \$5,000.00   |                    |                        |                         |
| Full Name, Mailing Address   | nd ZIP Code        | Name of Employer       | Date (month, day, year) |
| Rangel for Congress, 2000  | Station New York N | Occupation             | 3/17/00                 |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General            |                    | Aggregate Year-to-Date | \$2,000.00              |
| Amounts of Each Receipt this Period \$2,000.00   |                    |                        |                         |
| Full Name, Mailing Address   | nd ZIP Code        | Name of Employer       | Date (month, day, year) |
| UAW V CAP  | MI 48214           | Occupation             | 2/9/00                  |
| Receipt For: <input checked="" type="checkbox"/> Primary <input checked="" type="checkbox"/> General |                    | Aggregate Year-to-Date | \$10,000.00             |
| Amounts of Each Receipt this Period \$5,000.00   |                    |                        |                         |
| Full Name, Mailing Address   | nd ZIP Code        | Name of Employer       | Date (month, day, year) |
| JACPAC   | 60035              | Occupation             | 2/6/00                  |
| Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General            |                    | Aggregate Year-to-Date | \$500.00                |
| Amounts of Each Receipt this Period \$500.00   |                    |                        |                         |

|   |                 |
|---|-----------------|
| SUBTOTAL of Receipts 11-                          | Page (optional) |
| TOTAL This Period (last of this line number only) |                 |

2

KEN TOLTZ Campaign

FAX 303 - 703 - 1738

ATTN: NANCY SALERNO

Expenses for Fund Raiser for  
KEN TOLTZ ON FEBRUARY 10, 2000  
at our home:

CATERING - PANACHE 1636.67

Wine etc. - ARGONAUT LIQUORS 456.38

TOTAL 2093<sup>05</sup>

ROBERT & ROBYN LOUP  
14 CANYON PLACE  
Greenwood Village, CO 80111

~~Star~~ on report

Robert E. Loup

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March 27, 2000

Ken Toltz Campaign

Fax: 303-703-1738

Attn: Nancy Salerno

Expenses for Fund Raiser for Ken Toltz on February 10, 2000 at our home.

|                             |               |
|-----------------------------|---------------|
| Catering - Panache          | \$1,636.67    |
| Wine etc - Argonaut Liquors | <u>456.38</u> |
| Total                       | \$2,093.05    |

Robert and Robyn Loup  
14 Canon Place  
Greenwood Village, CO 80111



Mollie Brundage  
217 W. 2<sup>nd</sup> Avenue  
Denver, Colorado 80213

3

Donated to the Toltz2000 campaign:

One Toshiba Notebook Computer  
approximate current value \$1,000

2000-04-02 15:00



# Circuit City Stores, Inc.

Store 3345  
LITTLE ROCK, AR 72120  
(503) 791-7 20

16:19:32 06/15/97

Sold to:  
STUART R. MADLEY  
CUSTOMER COPY

Ficket  
333800100000  
Orig Date 12/03/96

| Salesperson: |     | Trans#       | Register         | Cashier |           |
|--------------|-----|--------------|------------------|---------|-----------|
|              |     | 3345001/5437 | 05               | 082883  |           |
| Item         | Qty | Model        | Description      | Tax     | Amount    |
| 1 SL         | 1   | XX COMPUTER  | DESKTOP COMPUTER | N       | .00       |
| 2 RT         | 1   | XX COMPUTER  | DESKTOP COMPUTER | N       | .00       |
| 3 SL         | 1   | PQ 288800003 | DESKTOP COMPUTER | Y       | 1,199.96  |
| 4 PJ         | 1   | PQ 288800003 | Price Adjustment | Y       | 219.96    |
| 5 RT         | 1   | PQ 288800003 | DESKTOP COMPUTER | Y       | 979.97    |
| 6 SL         | 1   | PQ 241500001 | COMPUTER MONITOR | Y       | 399.94    |
| 7 RT         | 1   | PQ 241500001 | COMPUTER MONITOR | Y       | 399.94    |
| 8 SL         | 1   | MXX COMPUTER | DESKTOP COMPUTER | N       | .00       |
| 9 SL         | 1   | CSP Service  | Extended Service | N       | 219.96    |
| 10 SL        | 1   | TOS 435CDS   | NOTEBOOK COMPUTE | Y       | 1,699.997 |
| 11 PJ        | 1   | TOS 435CDS   | Price Adjustment | Y       | 110.01    |
| 12 RT        | 1   | TOS 435CDS   | NOTEBOOK COMPUTE | Y       | 1,589.98  |
| 13 SL        | 1   | MHZ XU1336   | COMPUTER PERIPHE | Y       | 99.99     |
| 14 DS        | 1   | TOS 435CDS   | NOTEBOOK COMPUTE | Y       | 1,589.96  |

|                |    |          |
|----------------|----|----------|
| Non-Taxable    | \$ | 219.96   |
| Total Taxable  | \$ | 1,319.95 |
| Sales Tax      | \$ | 92.18    |
| TOTAL PURCHASE | \$ | 2,232.13 |
| Total Paid     | \$ | 0.00     |
| BALANCE        | \$ | 115.26   |

## Item

- 4 CPU 288800003, has been adjusted to reflect our Commitment to our Low Price Guarantee.
- 8 Computer Support Plus in home service for the MXX COMPUTER and MHZ XU1336 starts 05/09/98 and expires 05/09/01. For repairs, call 1-800-555-4515.
- 11 TOS 435CDS, has been adjusted to reflect our Commitment to our Low Price Guarantee.
- 14 For questions and Problems operating your TOS 435CDS during manufacturer warranty call 1-800-999-4273 for assistance.
- \*\* Unscheduled Pickup for your TOS 435CDS  
Please present your receipt when picking up your product.
- A 15% restocking fee will be charged for the return of any NOTEBOOK COMPUTERS
- \*\* This sales receipt and the accompanying Important Papers Folder contain the terms and conditions for your EXTENDED SERVICE CONTRACT.
- \*\* COMPUTER RETURN POLICY  
Computers, laptops, monitors, printers and related accessories may be returned for a refund within 14 days of purchase. Just return the merchandise in new condition with your sales receipt, carton, and accessories, including manuals, mouse, software and cables.
- CM WE NEED TO PRICE ADJUST 110% OF DIFFERENCE OF 150\$ OFF FOR MONITOR

20 "04" 402 "2942

Circuit City Stores, Inc.

DENVER, CO 80220  
(303) 591-384

11:21.44 DB/36-97

Sold to  
STUART BAY LEV  
CUSTOMER COPY

124 211 152 314

012 3456 03/08/97

| Salvadores: | Transit      | Register | Carrier |
|-------------|--------------|----------|---------|
|             | 334300208437 | 04       | 003247  |

| Item | Qty | Ud | Description                    | Tax | Amount |
|------|-----|----|--------------------------------|-----|--------|
| 1 SL | 1   | P  | C4589A COMPUTER PRINTER        | Y   | 249.00 |
| 2 RT | 1   | P  | C4589A COMPUTER PRINTER        | Y   | 249.00 |
| 3 SL | 1   | P  | C4585A PRINTER ACCESSORY       | Y   | 19.00  |
| 4 RT | 1   | P  | C4585A PRINTER ACCESSORY       | Y   | 19.00  |
| 5 SL | 1   | P  | APRMC00 MISC AUDIO ACCESS      | Y   | 23.00  |
| 6 SL | 1   | W  | MULTIPASC2500 COMPUTER PRINTER | Y   | 499.00 |
| 7 FJ | 1   | W  | MULTIPASC2500 Price Adjustment | Y   | 34.22  |
| 8 SL | 1   | W  | 10012 COMPUTER PERIPHER        | Y   | 149.00 |

|                |    |        |
|----------------|----|--------|
| Total Taxable  | \$ | 699.75 |
| Sales Tax      | \$ | 31.31  |
| TOTAL PURCHASE | \$ | 731.06 |
| VISA-M         | \$ | 35.55  |
| BALANCE        | \$ | 0.00   |

## 11. 2. 2011

- 6 For Questions and Problems operating your  
CAN MULT PASCO2500 during manufacturer warranty call  
1-800-421-2396 for assistance.
- 7 CAN MULT PASCO2500, has been adjusted to reflect our  
Commitment to our Low Price Guarantee.
- 8 For Questions and Problems, operating your 10M 100 -  
during manufacturer warranty call 1-801-829-7825  
for assistance.
- **COMPUTER RETURN POLICY**
- Computers, laptops, monitors, printers and related  
accessories may be returned for a refund within  
14 days of purchase. Just return the merchandise in  
new condition with your sales receipt, serial, and  
accessories, including manuals, cables, software, and  
batteries.
- THANK YOU FOR CHOOSING A. GARDNER, VETERAN

For repair service call: (800) 779-5330

4

Joel Rosenstein

Dear Joel,

Thank you for your most recent contribution Ken's campaign for Congress. Your total contribution thus far is \$1219.85. Under Federal law, you are allowed to contribute \$1,000.00 toward the primary election and \$1,000.00 toward the general election. We would greatly appreciate it if we could redesignate at least part of your contribution to Jennifer, in order to consider the entire contribution as part of our primary election money raised. In order to do this, I need your written authorization. Would you and Jennifer please sign in the space provided below and fax this back to me immediately. My fax number is 303 703.1738. Please call me with any questions you may have at 303-703.1734

Thanks again for all your help!!

Best Regards,



Sarah M. Kendall  
TOLTZ2000

Please redesignate my contribution as follows:

|              |                |
|--------------|----------------|
| Amount _____ | Jennifer _____ |
| Amount _____ | Joel _____     |

5

|   |           |                    |
|---|-----------|--------------------|
| TOLL FREE 2200  |           | 2442               |
| KENNETH A. TOLTZ  |           |                    |
| 1271 W. LITTLETON BLVD  |           |                    |
| LITTLETON, CO 80120   |           |                    |
| Date 5/23/00  |           | 23-015/1120<br>118 |
| Pay to the Order of Joel Rosensien  | \$ 219.18 |                    |
| two hundred nineteen and 18/100   | Dollars   |                    |
| For Debit   |           |                    |
| Sandra Marshall   |           |                    |
| VECTRA BANK NATIONAL ASSOCIATION<br>800 E. WILSON AVENUE<br>LITTLETON, CO 80111<br>FED. RESERVE #100 (FED. ACCOUNT INFORMATION) |           |                    |