BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of   )
)   MUR 6300
Gen-X Strategies, Inc., *aka* GXS Strategies)   **SEP 1) 2010**
)
)

<u>RESPONSE TO COMMISSION FINDINGS BY RESPONDENT</u>

This matter has arisen out of an in-kind contribution of technology services made by Respondent to the Republican Party of Virginia ("RPV") during the fall of 2008. At the time of the contribution, the Chairman of RPV was also the CEO of the Respondent.

In June 2008, RPV had engaged a third party firm to revamp its online technology infrastructure (i.e. website, email list platform, online fundraising, etc.), a project that would take several months to complete. RPV desired a short-term, turn-key solution to communicate online and raise money during the interim period between June 2008 and the completion of the work by the third party company so that RPV could begin to re-build its online and offline lists of contributors, activists, and volunteers and other critical information assets. Some of the in-kind services central to this matter that were provided to RPV would have had little or no benefit to RPV's federal activities.

Because of the unique relationship between RPV and Respondent given that firm's CEO was the Chairman of RPV, the Respondent had intended to provide technology services quickly to RPV at no charge to help move RPV's mission and objectives forward at the lowest possible cost.

RPV has a long history of accepting corporate contributions, cash or in-kind, and Virginia campaign finance law permits these donations in any amount so long as they are fully disclosed and reported to the State Board of Elections.

The Respondent's in-kind contribution was made with the full intent and expectation that it was a state – not federal – contribution, consistent with other corporate in-kind contributions made to and accepted by RPV, and permitted by Virginia law. Once the subject contribution had been made, Respondent notified RPV of the value of the services provided and requested the contribution be reported fully and in compliance with the law. Respondent further asked that should some of the contribution be construed as benefiting RPV's federal election activities, that RPV make whatever federal-to-state account transfer to be in full compliance with both state and federal law.

All information, counsel, and precedent available to RPV and Respondent at the time assured all parties that the in-kind contribution was legal and appropriate:

- In the (then) recent past, RPV had accepted similar technology-related in-kind contributions from Microsoft Corporation and Symantec Corporation;

- There was no contractual arrangement between RPV and Respondent;

- Respondent did not profit by making this contribution, but rather donated (or lost) valuable time and resources;

- Respondent directed that the in-kind contribution be reported in full compliance with the state law and could be handled similarly to the way prior large in-kind contributions to RPV from corporate entities had been handled;

- Respondent specifically requested the contribution avoid any conflict with federal election law;

- In no way was this in-kind contribution intended as a federal election contribution;

- Respondent did not attempt to influence RPV by making this contribution, especially given the fact that the RPV Chairman was also the Respondent's CEO. This contribution was more akin to a political candidate donating to his own campaign.

At all times, including the circumstances surrounding RPV's summer 2008 efforts to revamp its online technology infrastructure, RPV's Chairman acted under the authority granted the state chairman in the RPV "Plan of Organization" (*aka* "the Party Plan"), Article III, Section D 2(f). The decisions and/or actions related to this matter were made in consultation with the RPV Executive Committee, including the RPV Treasurer, as well as RPV staff, including RPV's Executive Director and the Controller/CFO. Minutes of the September 27, 2008 RPV Executive Committee meeting indicate the Executive Committee was briefed about the in-kind services being provided, questions were answered, and no one present voiced a problem nor expressed an objection to the arrangement surrounding the in-kind contribution from Respondent. Further, it was hardly a secret in and around RPV that Respondent was providing free (or in-kind) services to RPV.

Statutorily, it is the Treasurer's obligation and responsibility to administer, comply with federal and state law, and report RPV's income and expenditures, and he did not decline Respondent's in-kind contribution nor object to it when briefed.

MUR 6300
Response to Commission Findings by Respondent
Gen-X Strategies, Inc.

In March 2009, Respondent discovered an omission in RPV's state campaign finance filing and requested the RPV Controller/CFO to self report the omission by immediately filing an amended report to insure full compliance with the law.

Among the benefits of this contribution to RPV were a more than 37-fold (or 3700%) increase in online/internet contributions to RPV. More specifically, during the first five months of 2008, RPV collected a just over $2,000 in online donations. In contrast, RPV raised almost $75,000 online in the final seven months of 2008 utilizing the Respondent's Authorize.Net system.

Notwithstanding any of the aforementioned, had Respondent received information that would have discouraged this contribution or indicated it would be considered a federal election contribution, Respondent would not have made it. Then, RPV could have paid a firm to do the work in lieu of the in-kind contribution. Had the arrangement been handled in such a way where Respondent billed and was paid for the services by RPV from its federal account/committee and subsequently made a cash contribution to RPV's state account/committee, there would be no issue with the metter before the Commission.

Incorporated by reference to this document: