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October 29, 2009

MEMORANDUM

AGENDA ITEM
For Meeting of: 11-04-09

To: The Commission

Through: Robert A. Hickey *RAH*
Staff Director

From: John D. Gibson *JDG*
Chief Compliance Officer

Joseph F. Stoltz *JFS*
Assistant Staff Director
Audit Division

Thomas J. Nurthen *TJN*
Audit Manager

By: Brenda E. Wheeler *BW*
Lead Auditor

Subject: Audit Hearing for the Tennessee Democratic Party (TDP)

As provided for in the Procedural Rules for an Audit Hearing, a copy of the subject draft final audit report and the legal analysis was sent to the TDP and its Counsel on August 25, 2009. Counsel for TDP requested a hearing on September 14, 2009.

In response, Counsel for TDP stated he will address Finding 1- Non-allocable Federal Election Activity Disclosed on Schedule H6. That finding has three sections: Polls, Phone Banks, and Campaign Rallies. Counsel wishes to address the polls and campaign rallies. Specifically, TDP disputes the conclusion that the polls should have been paid solely with federal funds and contends that the polls were ordinary, allocable, administrative costs that should have been disclosed on Schedule H4. With respect to the campaign rallies, TDP stands by its assertion that these invoices were mistakenly addressed to the Harold Ford campaign and were, in fact, for generic rallies sponsored by the TDP.

The Audit staff and the Commission's Office of General Counsel agree that the polls represented federal election activity that should have been paid solely by the federal

account and not allocated as shared activity. The polls meet the statutory definition of a public communication which includes a communication by means of a telephone bank. The statutory definition of a telephone bank means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period. The polls consisted of 600 telephone interviews conducted from October 14, 2006 through October 26, 2006 and another 600 telephone interviews conducted from October 26, 2006 through October 28, 2006. Certain poll questions referred to clearly identified candidates for federal office and promoted, attacked, supported or opposed such candidates (see Exhibit I). TDP argues that a distinction should be drawn between “telephone banks” and survey that are used for research. Currently no such distinction exists in the statute or Commission regulations, however as Counsel points out the issue was discussed in connection to MUR 5835.

With respect to the campaign rallies, the Audit staff and the Office of General Counsel also agree that if the charges listed on the invoices were in fact, as the documentation suggests, incurred by the Candidate’s committee or its agents and paid by the TDP, they are coordinated expenditures and are subject to the limitation at 2 U.S.C. 441a(d).

The invoices from the 11 vendors represent at least 5 separate events. It does not appear likely, as TDP contends that all 11 vendors mistakenly invoiced the Ford Committee (instead of TDP). As stated in the draft final audit report, the invoices contained notations of the events, such as, Family BBQ for Harold Ford, Jr. – Harold Ford, Jr. Campaign Rally at Swing Time Golf Range on October 14, 2006¹ – Political Rally for Harold Ford, Jr. The declaration of Randy Button submitted by TDP does not explain how such a wide-spread misunderstanding could have occurred, or make any representations about whether Ford materials were displayed at the events, or whether the Candidate was mentioned at the events. Mr. Button does state that it is his belief that the candidate did not attend the events, but that is not dispositive (see Exhibit II). It is noted that the Senate race was one of only two statewide races in 2006 and the only one that, based on the election results, was a close race.

Counsel does raise the question of whether a party rally is a public communication. If they are a public communication that promotes, attacks, supports, or opposes a federal candidate they must be paid with 100% federal funds.

In addition to the attached Exhibits, please find a copy of the draft final audit report, the legal analysis provided by the Commission’s Office of General Counsel, and the audit hearing request/response by TDP.

Please be advised that the poll questions, declaration of Randy Button, and other related document can be found in the following location: Ntsrv1\ voting ballot matters\Audit\Tennessee Democratic Party. Should you have any questions, please contact Brenda Wheeler or Tom Nurthen at 694-1200.

¹ The invoice for the Ford for Tennessee bottled water indicates delivery on October 14, 2006. TDP is not contesting this invoice.

Attachments:

Exhibit I – Poll Questions

Exhibit II – Declaration of Randy Button

Draft Final Audit Report

Office of General Counsel’s Legal Analysis

Tennessee Democratic Party’s Audit Hearing Request/Response

Exhibit I

OCT. 14-16

<i>Are you 18 years or older and registered to vote in Tennessee?</i>	
	Total
Q4	
Yes	100%
No	
Don't Know	

<i>Do you or does anyone in your household work in any of the following industries?</i>	
	Total
Q5	
Advertising	0%
Journalism or the media	
Computers	2%
Politics	
NONE OF THE ABOVE	97%

<i>Do you consider yourself a strong Democrat, weak Democrat, strong Republican, weak Republican, or an Independent or unaffiliated voter?</i>	
	Total
Q6	
DEMOCRAT	33%
Strong Democrat	27%
Weak Democrat	6%
REPUBLICAN	31%
Strong Republican	26%
Weak Republican	5%
INDEPENDENT	36%
Independent/unaffiliated	31%
Don't know	5%

<i>Do you tend to lean toward the Democratic party, Republican party or neither party?</i>	
	Total
Q7	
Democratic	28%
Republican	24%
Neither	40%
Don't Know	8%

<i>Party ID with leavers</i>	
	Total
PARTYLEAN	
Democratic	41%
Republican	38%
Neither	12%
Don't know	8%

In November, there will be a general election in Tennessee for Governor, U.S. Senate, House, and state legislative offices. How likely are you to vote in this election?

	Total
Q8	
Absolutely certain	56%
Very likely	13%
Possibly	
Not very likely	
Not at all likely	
Already voted	30%
Don't know	

CODE GENDER

	Total
Q1	
Male	48%
Female	52%

In the election for U.S. Senate, for whom did you vote?

	Total
Q9	
Democrat Harold Ford, Jr.	40%
Republican Bob Corker	32%
Neither	5%
Don't know	24%

Do you generally think that things in the country are headed in the right direction or are they on the wrong track?

	Total
Q10	
Right Direction	30%
Wrong Track	53%
Don't Know	17%

Do you generally think that things in Tennessee are headed in the right direction or are they on the wrong track?

	Total
Q11	
Right Direction	58%
Wrong Track	30%
Don't Know	13%

What two or three issues would you say are the most important ones for your U.S. Senator to focus on? (DO NOT READ LIST) (ALLOW MULTIPLE RESPONSES - MINIMUM OF TWO UNLESS DON'T KNOW)

	Total
Q12	
Abortion	6%
NET BUDGET	5%
BUDGET- balance the budget	2%
BUDGET- budget cuts	1%
BUDGET - deficits	2%
NET COMMUNITY	2%
COMMUNITY - Lack of community/ neighborhoods disappearing	1%
COMMUNITY - General	1%
NET CRIME	8%
CRIME- drugs	3%
CRIME - guns/gun violence - need for gun control	1%
CRIME - guns - too much regulation	1%
CRIME - gangs	1%
CRIME- general	3%
Discrimination/bigotry/racism	0%
NET ECONOMY	22%
ECONOMY - jobs	15%
ECONOMY - Outsourcing/foreign trade/trade deficits	4%
ECONOMY - unspecified/other	6%
NET EDUCATION	18%
EDUCATION- bilingual education	1%
EDUCATION - quality of schools/quality of education	8%
EDUCATION - school buildings/school construction	2%
EDUCATION - government funding/more money for education	4%
EDUCATION - other	5%
NET ENERGY	3%
ENERGY - renewable energy	1%
ENERGY - gas prices/rising prices	2%
NET ENVIRONMENT	2%
ENVIRONMENT - air/ water pollution	2%
ENVIRONMENT - sprawl/overdevelopment/open space	0%
NET INTERNATIONAL	37%
INTERNATIONAL -- Democracy in the Middle East	0%
INTERNATIONAL - Terrorism/security	5%
INTERNATIONAL - Iraq war	31%
INTERNATIONAL - Other	2%
NET GOVERNMENT REFORM	4%
GOVERNMENT REFORM- campaign finance reform	1%
GOVERNMENT REFORM- corruption	2%
GOVERNMENT REFORM- politics as usual	1%
GOVERNMENT REFORM- Special interests	1%
NET HEALTH CARE	32%
HEALTH CARE- cost	12%
HEALTH CARE- access	4%
HEALTH CARE- choice of doctors, providers	1%
HEALTH CARE - prescription drugs/drug prices	3%
HEALTH CARE - HMOs	1%
HEALTH CARE - Medicaid	2%
HEALTH CARE - Medicare	3%
HEALTH CARE - unspecified	9%
Homelessness	2%
Housing/Affordable housing	1%
Immigration/Illegal immigration	19%
Morality/family values	5%
SECURITY - Homeland security	8%
Social Security	9%
NET TAXES	13%
TAXES - U.S./federal	4%
TAXES - state taxes	2%
TAXES - local property taxes	3%
TAXES - other	5%
NET TRANSPORTATION	1%
TRANSPORTATION - Roads	1%
TRANSPORTATION - Traffic	
TRANSPORTATION - mass transit	

What two or three issues would you say are the most important ones for your U.S. Senator to focus on? [DO NOT READ LIST] [ALLOW MULTIPLE RESPONSES - MINIMUM OF TWO UNLESS 'DON'T KNOW']

	Total
Q12	
TRANSPORTATION- unspecified	0%
Other	1%
Gay marriage/ marriage amendment	3%
Wages/ minimum wage	2%
Stem cell research	1%
Senior issues/ retirement	1%
Congress	0%
Veterans/ help for vets	1%
Judicial appointments	0%
More attention to domestic/ local issues	0%
Don't know	7%

<i>George W. Bush</i>	
	Total
Q13	
FAVORABLE	49%
Very favorable	27%
Somewhat favorable	22%
UNFAVORABLE	48%
Somewhat unfavorable	11%
Very unfavorable	37%
Don't know	3%

<i>Phil Braden</i>	
	Total
Q14	
FAVORABLE	76%
Very favorable	39%
Somewhat favorable	36%
UNFAVORABLE	14%
Somewhat unfavorable	8%
Very unfavorable	7%
Don't know	10%

<i>Harold Ford, Junior</i>	
	Total
Q15	
FAVORABLE	52%
Very favorable	27%
Somewhat favorable	25%
UNFAVORABLE	40%
Somewhat unfavorable	15%
Very unfavorable	25%
Don't know	8%

<i>Bob Corker</i>	
	Total
Q16	
FAVORABLE	45%
Very favorable	17%
Somewhat favorable	28%
UNFAVORABLE	44%
Somewhat unfavorable	18%
Very unfavorable	26%
Don't know	11%

<i>If the November election for U.S. Senate was held today and the candidates were (READ LIST) for whom would you vote?</i>	
	Total
Q17	
Democrat Harold Ford, Junior	46%
Republican Bob Corker	41%
Don't know	13%

<i>Do you lean toward either Ford or Corker?</i>	
	Total
Q18	
Yes - Ford	17%
Yes - Corker	15%
No	31%
Don't Know	37%

<i>US Senate (Q17) HR with Leans</i>	
	Total
HRLEAN1	
Democrat Harold Ford, Junior	48%
Republican Bob Corker	43%
Undec	9%

Democrat Harold Ford, Junior

<i>Would you say you will definitely vote for that candidate or possibly vote for that candidate?</i>	
	Total
Q19	
Definitely	83%
Possibly	16%
No preference	1%
Don't know	

Republican Bob Corker

<i>Would you say you will definitely vote for that candidate or possibly vote for that candidate?</i>	
	Total
Q19	
Definitely	82%
Possibly	17%
No preference	1%
Don't know	1%

Undecided

<i>Would you say you will definitely vote for that candidate or possibly vote for that candidate?</i>	
	Total
Q19	
Definitely	
Possibly	
No preference	
Don't know	

<i>If the November election for Governor was held today and the candidates were [READ LIST], for whom would you vote?</i>	
	Total
Q20	
Democrat Phil Bredesen	66%
Republican Jim Bryson	23%
Don't know	11%

<i>Do you lean toward either Bredesen or Bryson?</i>	
	Total
Q21	
Yes - Bredesen	16%
Yes - Bryson	11%
No	27%
Don't Know	46%

<i>Governor (Q20) HR with Leans</i>	
	Total
HRLEAN2	
Democrat Phil Bredesen	67%
Republican Jim Bryson	24%
No	3%
Don't Know	5%

<i>Phil Bredesen</i>	
	Total
Q22	
EXCELLENT/GOOD	63%
Excellent	19%
Good	44%
FAIR/POOR	34%
Fair	28%
Poor	6%
Don't Know	3%

<i>George W. Bush</i>	
	Total
Q23	
EXCELLENT/GOOD	37%
Excellent	12%
Good	25%
FAIR/POOR	61%
Fair	23%
Poor	38%
Don't Know	2%

<i>Stand up to special interests. Do you trust <Q24r2> or <Q24r1> to do this? [IF FORD OR CORKER, THEN ASK] Do you trust him much more or somewhat more than the other candidate?</i>	
	Total
Q24	
FORD MORE	40%
Democrat Harold Ford Junior - much more	28%
Ford - somewhat more	12%
CORKER MORE	36%
Corker - somewhat more	16%
Republican Bob Corker - much more	20%
Neither	11%
Both	2%
Don't Know	11%

<i>Represent the best interests of middle class Tennessee residents. Do you trust <Q24r1> or <Q24r2> to do this? [IF FORD OR CORKER, THEN ASK] Do you trust him much more or somewhat more than the other candidate?</i>	
	Total
Q25	
FORD MORE	47%
Democrat Harold Ford Junior - much more	34%
Ford - somewhat more	13%
CORKER MORE	39%
Corker - somewhat more	16%
Republican Bob Corker - much more	23%
Neither	6%
Both	1%
Don't Know	7%

<i>Make our borders secure from illegal aliens. Do you trust <Q24r2> or <Q24r1> to do this? [IF FORD OR CORKER, THEN ASK] Do you trust him much more or somewhat more than the other candidate?</i>	
	Total
Q26	
FORD MORE	38%
Democrat Harold Ford Junior - much more	26%
Ford - somewhat more	12%
CORKER MORE	39%
Corker - somewhat more	16%
Republican Bob Corker - much more	23%
Neither	10%
Both	2%
Don't Know	11%

Bring the change we need in Washington. Do you trust <Q24r1> or <Q24r2> to do this? [IF FORD OR CORKER, THEN ASK] Do you trust him much more or somewhat more than the other candidate?

	Total
Q27	
FORD MORE	43%
Democrat Harold Ford Junior - much more	31%
Ford - somewhat more	12%
CORKER MORE	36%
Corker - somewhat more	14%
Republican Bob Corker - much more	22%
Neither	11%
	1%
Don't Know	9%

Close tax loopholes for big corporations and multi-millionaires. Do you trust <Q24r2> or <Q24r1> to do this? [IF FORD OR CORKER, THEN ASK] Do you trust him much more or somewhat more than the other candidate?

	Total
Q28	
FORD MORE	50%
Democrat Harold Ford Junior - much more	38%
Ford - somewhat more	12%
CORKER MORE	27%
Corker - somewhat more	14%
Republican Bob Corker - much more	14%
Neither	9%
	1%
Don't Know	13%

Develop alternative sources of energy to end our dependence on oil. Do you trust <Q24r1> or <Q24r2> to do this? [IF FORD OR CORKER, THEN ASK] Do you trust him much more or somewhat more than the other candidate?

	Total
Q29	
FORD MORE	43%
Democrat Harold Ford Junior - much more	31%
Ford - somewhat more	12%
CORKER MORE	33%
Corker - somewhat more	14%
Republican Bob Corker - much more	18%
Neither	8%
Don't Know	16%

Focus on the challenges facing the country today. Do you trust <Q24r2> or <Q24r1> to do this? [IF FORD OR CORKER, THEN ASK] Do you trust him much more or somewhat more than the other candidate?

	Total
Q30	
FORD MORE	46%
Democrat Harold Ford Junior - much more	30%
Ford - somewhat more	16%
CORKER MORE	40%
Corker - somewhat more	19%
Republican Bob Corker - much more	21%
Neither	5%
	0%
Don't Know	9%

Share your values in Congress. Do you trust <Q24r1> or <Q24r2> to do this? [IF FORD OR CORKER, THEN ASK:] Do you trust him much more or somewhat more than the other candidate?

	Total
Q1	
FORD MORE	43%
Democrat Harold Ford, Junior - much more	28%
Ford - somewhat more	15%
CORKER MORE	40%
Corker - somewhat more	16%
Republican Bob Corker - much more	24%
Neither	5%
	1%
Don't Know	10%

Do you feel Bob Corker, the Republican candidate, is ...

	Total
Q32	
Liberal	10%
Moderate	26%
Conservative	45%
Don't Know	19%

Do you feel Harold Ford Jr., the Democratic candidate, is ...

	Total
Q33	
Liberal	47%
Moderate	30%
Conservative	10%
Don't Know	13%

And, why do you feel Harold Ford Jr. is liberal?

	Total
Q34	
His voting record	17%
Misses too many votes/ not doing his job	2%
He's a Democrat/Democrats are liberals	7%
Background/family history	10%
Liberal views on issues	10%
Favors abortion	2%
Favors gay marriage	1%
He likes to spend taxpayer's money	2%
Washington insider	1%
He reminds me of the Kennedys	1%
Campaigning/his ads on TV	6%
Things I've read about him	0%
He is untrustworthy/don't trust him	2%
Never worked a day in his life/career politician	1%
The things he says/the way he acts	5%
Goes along with other noted liberals	4%
Tends to favor social issues/for the people	3%
I like him/trust him more	2%
I don't like him	1%
He's young	1%
Not pro-gun	1%
Not a Tennessee native	1%
He has an open mind	1%
Divisive/doesn't offer solutions to bring people together	1%
Things I've heard about him	1%
Other	3%
Don't know	16%

<i>Have you heard or read anything about Democratic Senate candidate Harold Ford recently?</i>	
	Total
Q35	
Yes	69%
No	30%
Don't Know	1%

<i>Did this make you...[READ LIST]...toward Harold Ford?</i>	
	Total
Q36	
MORE FAVORABLE	40%
Much more favorable	20%
Somewhat more favorable	20%
LESS FAVORABLE	37%
Somewhat less favorable	18%
Much less favorable	19%
Don't know	23%

<i>What did you hear or read that made you more favorable?</i>	
	Total
Q37	
Nothing/none	2%
Negative attacks on him	21%
I'm sick of the negative ads/attack ads	3%
Ford's response to negative/attack ads	5%
TV ads/commercials	16%
For the people/for the middle class	4%
Good Christian man	3%
His upbringing/family history	4%
Views on illegal immigration	3%
Views on abortion	2%
Views on the war in Iraq	2%
He's a Democrat	1%
Views on issues (various)	7%
Things I've read about him	2%
Wants more bipartisanship	
Other	10%
Don't know	16%

<i>What did you hear or read that made you less favorable?</i>	
	Total
Q38	
TV ads/commercials	11%
Negative/attack ads	8%
Family background/comes from a political family	6%
Voting record	9%
Not native to Tennessee	2%
Association with Playboy/porn industry	7%
Confrontation with Corker/crashed his press conference	11%
Views on abortion	3%
Takes too many trips/junkets	2%
Don't agree with him on issues	6%
Goes out of state to raise funds	2%
Missed too many votes	7%
Don't like the things he says	4%
Moral issues	2%
He's a liberal	4%
Things I've read about him	1%
Not trustworthy/don't like him	4%
Other	5%
Don't know	6%

<i>What did you hear or read?</i>	
	Total
Q39	
TV ads/commercials	23%
Negative/attack ads	24%
Playboy connection	12%
They pulled the ad	1%
Religious upbringing	1%
Family connection	1%
Don't like him	1%
Illegal immigration	2%
Confrontation with Corker	1%
Experience in Florida	1%
Poll numbers	1%
Voting record	1%
Debate performance	2%
Nothing/none	4%
Fliers/direct mail	2%
Focus on issues/not slinging mud	4%
Other	4%
Don't know	14%

<i>Have you heard or read anything about Republican candidate Bob Corker recently?</i>	
	Total
Q40	
Yes	63%
No	36%
Don't Know	1%

<i>Did this make you... (READ LIST)... toward Bob Carter?</i>	
	Total
Q41	
MORE FAVORABLE	31%
Much more favorable	16%
Somewhat more favorable	15%
LESS FAVORABLE	50%
Somewhat less favorable	27%
Much less favorable	23%
Don't know	19%

<i>What did you hear or read that made you more favorable?</i>	
	Total
Q42	
TV commercials/ political ads	11%
Pro-life/ against abortion rights	3%
Tennessee native	2%
Ford interrupting his news conference	6%
Views on gay/ traditional marriage	2%
Mayor of Chattanooga	10%
Views on the issues	10%
Family man	11%
Business background	8%
Views on illegal immigration	5%
Things I've read in the paper	3%
Don't like Ford	3%
Views on taxes	3%
Views on education	2%
Pro-gun/ second amendment	2%
More likeable/ personable than Ford	5%
Other	6%
Don't know	9%

<i>What did you hear or read that made you less favorable?</i>	
	Total
Q43	
TV commercials/ ads	21%
Negative/ attack ads on Ford	27%
Firing of illegal immigrants	6%
Illegal immigration/ securing the borders	2%
Attacks on Ford's family	2%
He lies about Ford	4%
He's associated with shady people	3%
Don't know what his views are/ he tells me nothing	3%
Don't like him	2%
He's a big money guy/ millionaire	3%
Smearing Ford with Playboy angle	4%
Wal Mart deal	2%
Didn't pay his share in taxes	1%
Gave himself raises	2%
Views on issues (various)	3%
Other	5%
Don't know	10%

<i>What did you hear or read?</i>	
	Total
Q44	
TV ads/commercials	31%
Negative/attack ads	22%
Ford interruption of his press conference	3%
Taxes/not paying his taxes	12%
Immigration/illegal immigration	3%
Things I've read about him	3%
Other	11%
Don't know	16%

<i>Did you see or hear about an accusation that Harold Ford Junior's father lobbied him?</i>	
	Total
Q45	
Yes	37%
No	57%
Don't Know	6%

Heard about Ford lobby accusation

<i>Which is closer to your view?</i>	
	Total
Q46	
This is an unfair attack on Harold Ford's family. Corker should focus on the issues, not on family attacks.	48%
This is a legitimate issue. Questions have been raised about Harold Ford Junior's ethics.	37%
Don't know	15%

Did not hear about Ford lobby accusation

<i>Which is closer to your view?</i>	
	Total
Q46	
This is an unfair attack on Harold Ford's family. Corker should focus on the issues, not on family attacks.	52%
This is a legitimate issue. Questions have been raised about Harold Ford Junior's ethics.	17%
Don't know	31%

Heard about Ford lobby accusation

<i>Harold Ford says his father did not lobby him. In your view, do you believe Harold Ford Junior's father lobbied him or not?</i>	
	Total
Q47	
Yes	31%
No	30%
Not sure	15%
Don't Know	23%

Did not hear about Ford lobby accusation

<i>Harold Ford says his father did not lobby him. In your view, do you believe Harold Ford Junior's father lobbied him or not?</i>	
	Total
Q47	
Yes	18%
No	26%
Not sure	25%
Don't Know	31%

<i>Did you hear or read about a new ad that criticizes Ford saying he wants to protect terrorists' privacy, is for the death tax, is against gun ownership, has partial with playboy hobbies, and has taken money from porn movie producers?</i>	
	Total
Q48	
Yes	73%
No	23%
Don't Know	5%

Heard Ford attack ad

<i>Does hearing this ad make you...[READ LIST]...to Harold Ford Jr.?</i>	
	Total
Q49	
MORE FAVORABLE	37%
Much more favorable	21%
Somewhat more favorable	15%
LESS FAVORABLE	27%
Somewhat less favorable	12%
Much less favorable	15%
Don't know	36%

Did not hear Ford attack ad

<i>Does hearing this ad make you...[READ LIST]...to Harold Ford Jr.?</i>	
	Total
Q49	
MORE FAVORABLE	13%
Much more favorable	10%
Somewhat more favorable	3%
LESS FAVORABLE	29%
Somewhat less favorable	12%
Much less favorable	17%
Don't know	58%

<i>Which is closest to your view of this ad?</i>	
	Total
Q50	
It is a fair criticism of Ford.	19%
It is racist.	16%
It is not proper for viewing by children.	38%
Don't know	26%

As far as you know did Bob Corker support putting this ad on the air or not?

	Total
Q51	
Yes	37%
No	35%
Don't Know	28%

Someone who will work to bring people together, not divide us, to focus on our shared values and shared goal of doing what's right for middle class families. Are you ...[READ LIST]... to support a candidate for U.S. Senate who will approach challenges in Washington in this manner?

	Total
Q52	
MORE LIKELY	87%
Much more likely	61%
Somewhat more likely	26%
LESS LIKELY	3%
Somewhat less likely	2%
Much less likely	1%
Don't know	11%

Someone who believes we need to make progress on the everyday challenges that face our country and our families like the costs of healthcare and college, our dependence on foreign oil, and the on going war in Iraq. Are you ...[READ LIST]... to support a candidate for U.S. Senate who will approach challenges in Washington in this manner?

	Total
Q53	
MORE LIKELY	87%
Much more likely	59%
Somewhat more likely	28%
LESS LIKELY	2%
Somewhat less likely	1%
Much less likely	1%
Don't know	11%

Someone who believes we need to make progress on the everyday challenges that face our country and our families like the rising costs of healthcare and college, our dependence on foreign oil, and the need to keep America strong and secure. Are you ...[READ LIST]... to support a candidate for U.S. Senate who will approach challenges in Washington in this manner?

	Total
Q54	
MORE LIKELY	86%
Much more likely	60%
Somewhat more likely	26%
LESS LIKELY	5%
Somewhat less likely	2%
Much less likely	3%
Don't know	9%

Someone who believes in doing what is right for middle class families and will work across party lines to find those answers. Are you... (READ LIST)... to support a candidate for U.S. Senate who will approach challenges in Washington in this manner?

	Total
Q55	
MORE LIKELY	91%
Much more likely	63%
Somewhat more likely	28%
LESS LIKELY	3%
Somewhat less likely	2%
Much less likely	1%
Don't know	5%

Bob Corker says he made tough choices. Tough for home owners - as Mayor he raised property taxes 24%. Tough on police and firefighters - Corker raised their health care costs by 50%. And tough on the people hurt when Chattanooga's 9-1-1 system failed to answer their calls. And for Corker? He got a taxpayer funded pension and three pay raises. And thanks to city investments he directed into redevelopment projects, the value of his property increased 42%. Does this make you:

	Total
Q56	
MORE LIKELY TO VOTE FOR CORKER	19%
Much more likely to vote for Corker	10%
Somewhat more likely to vote for Corker	9%
LESS LIKELY TO VOTE FOR CORKER	60%
Somewhat less likely to vote for Corker	15%
Much less likely to vote for Corker	45%
Don't know	21%

Bob Corker's allies in Congress passed billions in tax relief but middle class families saw hardly any of it. Oil companies got billions in cuts. Drug companies got billions but middle class families got more expensive gas, health care and college tuition. Despite being worth as much as \$200 million dollars, Bob Corker shields most of his income from taxes. And his campaign chairwoman is a major oil executive. Harold Ford believes that has to change. He would close these loopholes so middle class families can get a break. Does this make you:

	Total
Q57	
MORE LIKELY TO VOTE FOR CORKER	24%
Much more likely to vote for Corker	13%
Somewhat more likely to vote for Corker	12%
LESS LIKELY TO VOTE FOR CORKER	59%
Somewhat less likely to vote for Corker	16%
Much less likely to vote for Corker	43%
Don't know	17%

Bob Corker opposes the minimum wage. Ford will increase it. Corker says we should stay the course in Iraq. Ford says we can do better. Corker's campaign receives more money from oil and energy companies than any other in the country. Ford will reduce our dependence on foreign oil. Bob Corker raised the cost of health care for tens of thousands of Tennessee families both as Mayor and as Don Sundquist's Finance Secretary. Ford will reduce the cost of health care. For Tennessee families - the choice is clear. Does this make you:

	Total
Q58	
MORE LIKELY TO VOTE FOR CORKER	25%
Much more likely to vote for Corker	14%
Somewhat more likely to vote for Corker	11%
LESS LIKELY TO VOTE FOR CORKER	58%
Somewhat less likely to vote for Corker	14%
Much less likely to vote for Corker	44%
Don't know	18%

The cost of health care here in Tennessee is going up 8 times faster than our salaries. As Don Sundquist's finance commissioner and as mayor of Chattanooga, Bob Corker increased the cost of healthcare for 400,000 Tennesseans, including people living in poverty. As Mayor, he raised the cost of healthcare for police and firefighters by almost 50 percent while accepting three pay raises for himself. Bob Corker is not the change Tennessee families need when it comes to health care. Does this make you:

	Total
Q59	
MORE LIKELY TO VOTE FOR CORKER	18%
Much more likely to vote for Corker	11%
Somewhat more likely to vote for Corker	7%
LESS LIKELY TO VOTE FOR CORKER	60%
Somewhat less likely to vote for Corker	18%
Much less likely to vote for Corker	42%
Don't know	22%

What are Bob Corker's priorities? Even though Corker is personally worth as much as 230 million dollars, he says he does not believe there should be a minimum wage. Even though health care costs are on the rise, as Finance Commissioner he proposed raising TennCare premiums for families who are already earning less than poverty-level wages. And as Mayor he increased health care premiums for hard-working police and firefighters by 50% even though in that job he received three pay raises in four years. Does this make you:

	Total
Q60	
MORE LIKELY TO VOTE FOR CORKER	18%
Much more likely to vote for Corker	10%
Somewhat more likely to vote for Corker	9%
LESS LIKELY TO VOTE FOR CORKER	65%
Somewhat less likely to vote for Corker	19%
Much less likely to vote for Corker	46%
Don't know	17%

Bob Corker says quote I have never ever said I cut taxes. He's right. In fact, as Mayor he raised taxes on homeowners by 25% while raising the city's spending and debt. And both as Mayor and Don Sundquist's finance secretary he increased the cost of health care premiums rather than cut back on government spending. Harold Ford helped pass \$3 trillion dollars in tax cuts and never voted for a budget that was out of balance. When it comes to taxes and spending, Harold Ford is the change we need. Does this make you:

	Total
Q61	
MORE LIKELY TO VOTE FOR CORKER	22%
Much more likely to vote for Corker	14%
Somewhat more likely to vote for Corker	8%
LESS LIKELY TO VOTE FOR CORKER	60%
Somewhat less likely to vote for Corker	19%
Much less likely to vote for Corker	41%
Don't know	18%

Bob Corker's party has lost its direction. Their leaders protected one of their own when he was suspected of preying on children. They send snide into people's homes in attack ads and Bob Corker's reaction is to say there is nothing he can do. When our nation is at war, borrowing \$2 billion dollars a day from countries like China and health care costs are rising, we need leaders who will act. That's why we need new independent minded leaders like Harold Ford, who believe in accountability and results. Does this make you:

	Total
Q62	
MORE LIKELY TO VOTE FOR CORKER	23%
Much more likely to vote for Corker	13%
Somewhat more likely to vote for Corker	10%
LESS LIKELY TO VOTE FOR CORKER	58%
Somewhat less likely to vote for Corker	20%
Much less likely to vote for Corker	38%
Don't know	19%

Harold Ford believes in this country you can achieve anything you want to achieve, but we've strayed from that in recent years under the leadership of Bob Corker's allies in Congress. Now it seems like we have a government where people who make a lot of money get a lot of attention, but those in the middle don't. This election is a chance to correct that course by choosing a new generation of leaders, like Harold Ford, who believe it's Tennessee's middle class families' turn. Does this make you

	Total
Q63	
MORE LIKELY TO VOTE FOR CORKER	24%
Much more likely to vote for Corker	14%
Somewhat more likely to vote for Corker	9%
LESS LIKELY TO VOTE FOR CORKER	54%
Somewhat less likely to vote for Corker	17%
Much less likely to vote for Corker	37%
Don't know	22%

Given this, if the November election for U.S. Senate was held today and the candidates were [READ LIST]...for whom would you vote?

	Total
Q64	
Democrat Harold Ford, Junior	48%
Republican Bob Corker	39%
Don't know	13%

Harold Ford admits that he missed some votes. In fact he missed 365 votes. But, he had time for 69 privately funded junkets. He missed important votes to protect our children from TV obscenity, to fight crystal meth, to stop abortions without parental consent. And, even a vote to investigate Mark Foley. He doesn't show up for work. That's the real Harold Ford, Junior. Does this make you

	Total
Q65	
MORE LIKELY TO VOTE FOR FORD	30%
Much more likely to vote for Ford	22%
Somewhat more likely to vote for Ford	8%
LESS LIKELY TO VOTE FOR FORD	52%
Somewhat less likely to vote for Ford	19%
Much less likely to vote for Ford	32%
Don't know	19%

Harold Ford Junior. He's slick, he's smooth, but his record, a little shaky. Ford is Tennessee's most liberal congressman. He campaigned in a church that took cash from Hollywood's top X rated porn moguls. Ford talks values but voted to recognize gay marriage, voted for taxpayer abortions 10 times and wants to give the abortion pill to our school children. Harold Ford smooth talk, Hollywood values. Does this make you

	Total
Q66	
MORE LIKELY TO VOTE FOR FORD	32%
Much more likely to vote for Ford	22%
Somewhat more likely to vote for Ford	10%
LESS LIKELY TO VOTE FOR FORD	49%
Somewhat less likely to vote for Ford	15%
Much less likely to vote for Ford	35%
Don't know	19%

Given this, if the November election for U.S. Senate was held today and the candidates were [READ LIST]...for whom would you vote?

	Total
Q67	
Democrat Harold Ford, Junior	46%
Republican Bob Corker	40%
Don't know	13%

Ford believes we've got big problems in our country. The Iraq war. Whether families can get health care. Worries about our kids and whether jobs will move 10,000 miles away. We desperately need change. Ford says it is not easy, but he's asking voters to take a chance by voting for him and for change this year. Ford will remember it's Tennessee families he is working for, not the oil and drug companies. And he will work across party lines to deliver the results families deserve. With new leadership we can have change. Ford won't let us down.
Does this make you (READ CHOICES)

	Total
Q67A	
MORE LIKELY TO VOTE FOR FORD	
Much more likely to vote for Ford	50%
Somewhat more likely to vote for Ford	34%
LESS LIKELY TO VOTE FOR FORD	
Somewhat less likely to vote for Ford	17%
Much less likely to vote for Ford	27%
Don't Know	11%
	16%
	23%

Given this, if the November election for U.S. Senate was held today and the candidates were...READ AND ROTATE CHOICES...for whom would you vote?

	Total
Q67B	
Democrat Harold Ford, Junior	50%
Republican Bob Corker	36%
Don't Know	14%

Tennessee allows people to vote early, beginning 20 days before the election, or on election day, which is November 7. Do you intend to vote early or on election day?

	Total
Q68	
Early	55%
Election Day	42%
Don't Know	3%

How often do you attend religious services?

	Total
Q69	
Daily	4%
Weekly	60%
About monthly	11%
Rarely or never	21%
Don't know	3%

Which term applies best to you

	Total
Q70	
Married	74%
Single, never married	8%
Widowed	9%
Divorced	6%
Not married but with a partner	1%
Don't know	2%

Do you have any children under age 18 living at home?

	Total
Q71	
Yes	21%
No	77%
Don't know	2%

Which of the following categories best describes your age? ...

	Total
Q72	
18-24	1%
25-34	5%
35-49	20%
50-64	33%
65-69	15%
70+	23%
Don't know/refused	3%

For statistical purposes only, we need to know your total family income for 2005. Will you please tell me which of the following categories best represents your total family income? ...

	Total
Q73	
Less than \$20,000	11%
\$20,000-\$34,999	15%
\$35,000-\$59,999	18%
\$60,000-\$99,999	19%
\$100,000 - \$124,999	5%
\$125,000 or more	5%
Don't know/refused	27%

Do you generally consider yourself liberal, moderate, or conservative?

	Total
Q74	
Liberal	14%
Moderate	30%
Conservative	44%
Don't know	12%

What is your ethnic background?

	Total
Q75	
White	82%
Hispanic/Latino	1%
African American	11%
Asian	0%
Other	2%
Don't know	4%

Do you consider yourself to be of Hispanic descent?

	Total
Q76	
Yes	1%
No	96%
Don't know	3%

<i>What is your religion?</i>	
	Total
Q77	
PROTESTANT: Episcopal	3%
PROTESTANT: Baptist	36%
PROTESTANT: Lutheran	1%
PROTESTANT: Methodist	14%
PROTESTANT: Presbyterian	5%
PROTESTANT: Evangelical	2%
PROTESTANT: Other non-Catholic Christian	14%
Catholic	6%
Jewish	0%
Muslim/Islam	
Other	9%
None	5%
Don't know/ Refused	5%

<i>Do you consider yourself an evangelical or born again Christian?</i>	
	Total
Q78	
Yes - evangelical	7%
Yes - born again	63%
No	28%
Don't know	3%

<i>DMA</i>	Total
TRI-CITIES (531)	8%
KNOXVILLE (557)	20%
CHATTANOOGA (575)	10%
PDCH-OG-HAR-MTV (632)	1%
JACKSON (639)	3%
MEMPHIS (640)	20%
NASHVILLE (659)	37%
FINISVLE-DCTR (691)	1%

<i>TARGET</i>	Total
Target East	29%
Target Middle	29%
Target West	17%
Non- Target	25%

OCT. 26 - 28

Gender	Total
Q1	
Male	48%
Female	52%

DMA	Total
TRI-CITIES (531)	8%
KNOXVILLE (557)	20%
CHATTANOOGA (575)	10%
PDCH-OG-HAR-MTV (632)	1%
JACKSON (639)	3%
MEMPHIS (640)	20%
NASHVILLE (659)	38%
HNTSVLE-DCTR (691)	1%

TARGET	Total
Target East	27%
Target Middle	29%
Target West	18%
Non- Target	26%

Are you 18 years or older and registered to vote in Tennessee?	Total
Q4	
Yes	100%
No	-
Don't Know	-

Do you or does anyone in your household work in any of the following industries? [READ LIST]	Total
Q5	
Advertising	1%
Journalism or the media	-
Computers	2%
Politics	-
NONE OF THE ABOVE	98%

Do you consider yourself a strong Democrat, weak Democrat, strong Republican, weak Republican, or an Independent or unaffiliated voter?

	Total
Q6	
DEMOCRAT	34%
Strong Democrat	27%
Weak Democrat	7%
REPUBLICAN	32%
Strong Republican	25%
Weak Republican	7%
INDEPENDENT	34%
Independent/unaffiliated	32%
Don't know	2%

Do you tend to lean toward the Democratic party, Republican party or neither party?

	Total
Q7	
Democratic	30%
Republican	27%
Neither	35%
Don't Know	8%

In November, there will be a general election in Tennessee for Governor, U.S. Senate, House, and state legislative offices. How likely are you to vote in this election?

	Total
Q8	
Absolutely certain	80%
Very likely	20%
Possibly	-
Not very likely	-
Not at all likely	-
Don't know	-

Do you generally think that things in the country are headed in the right direction or are they on the wrong track?

	Total
Q9	
Right Direction	28%
Wrong Track	57%
Don't Know	15%

Do you generally think that things in Tennessee are headed in the right direction or are they on the wrong track?

Q10	Total
Right Direction	60%
Wrong Track	27%
Don't Know	13%

What two or three issues would you say are the most important ones for your U.S. Senator to focus on?
[DO NOT READ LIST] [ALLOW MULTIPLE RESPONSES - MINIMUM OF TWO UNLESS
DON'T KNOW]

Q11	Total
Abortion	5%
BUDGET - NET	8%
BUDGET balance the budget	3%
BUDGET budget cuts	2%
BUDGET deficits	3%
COMMUNITY - NET	1%
COMMUNITY Lack of community/ neighborhoods disappearing	0%
COMMUNITY General	0%
CRIME - NET	10%
CRIME drugs	3%
CRIME guns/gun violence need for gun control	2%
CRIME guns too much regulation	1%
CRIME gangs	0%
CRIME general	5%
Discrimination/bigotry/racism	1%
ECONOMY - NET	19%
ECONOMY jobs	13%
ECONOMY Outsourcing/foreign trade/trade deficits	2%
ECONOMY unspecified/other	4%
EDUCATION - NET	19%
EDUCATION bilingual education	2%
EDUCATION quality of schools/quality of education	7%
EDUCATION school buildings/school construction	2%
EDUCATION government funding/more money for education	3%
EDUCATION other	7%
ENERGY - NET	5%
ENERGY renewable energy	1%
ENERGY gas prices/rising prices	4%
ENVIRONMENT - NET	1%
ENVIRONMENT air/water pollution	1%
ENVIRONMENT sprawl/overdevelopment/open space	0%
INTERNATIONAL - NET	33%
INTERNATIONAL Democracy in the Middle East	1%
INTERNATIONAL Terrorism/security	4%
INTERNATIONAL Iraq war	27%
INTERNATIONAL Other	2%
GOVERNMENT REFORM - NET	6%
GOVERNMENT REFORM campaign finance reform	0%
GOVERNMENT REFORM corruption	3%
GOVERNMENT REFORM politics as usual	2%

What two or three issues would you say are the most important ones for your U.S. Senator to focus on?
[DO NOT READ LIST] [ALLOW MULTIPLE RESPONSES - MINIMUM OF TWO UNLESS
DONT KNOW]

	Total
Q11	
GOVERNMENT REFORM Special interests	0%
HEALTH CARE - NET	29%
HEALTH CARE cost	11%
HEALTH CARE access	5%
HEALTH CARE choice of doctors, providers	2%
HEALTH CARE prescription drugs/drug prices	5%
HEALTH CARE HMOs	1%
HEALTH CARE Medicaid	2%
HEALTH CARE Medicare	3%
HEALTH CARE unspecified	6%
Homelessness	1%
Housing/Affordable housing	0%
Immigration/Illegal immigration	23%
Morality/family values	4%
SECURITY Homeland security	7%
Social Security	5%
TAXES - NET	12%
TAXES U.S./federal	2%
TAXES state taxes	2%
TAXES local property taxes	3%
TAXES other	6%
TRANSPORTATION - NET	4%
TRANSPORTATION Roads	1%
TRANSPORTATION Traffic	1%
TRANSPORTATION mass transit	1%
TRANSPORTATION unspecified	1%
Other	1%
Gay marriage	1%
Lack of religious influences/need more focus on God	1%
Take care of the elderly/seniors	1%
Too many entitlements/giveaways	0%
Poverty	0%
Minimum wage	0%
Everything/all of the above	0%
More focus on domestic issues	0%
Don't know [DO NOT READ]	6%

George W. Bush

	Total
Q12	
FAVORABLE	48%
Very favorable	28%
Somewhat favorable	20%
UNFAVORABLE	49%
Somewhat unfavorable	13%
Very unfavorable	36%
Don't know	3%

Phil Bredeesen

Total

Q13

FAVORABLE	77%
Very favorable	38%
Somewhat favorable	39%
UNFAVORABLE	14%
Somewhat unfavorable	7%
Very unfavorable	8%
Don't know	9%

Harold Ford, Junior

Total

Q14

FAVORABLE	52%
Very favorable	29%
Somewhat favorable	23%
UNFAVORABLE	39%
Somewhat unfavorable	16%
Very unfavorable	23%
Don't know	9%

Bob Corker

Total

Q15

FAVORABLE	46%
Very favorable	19%
Somewhat favorable	26%
UNFAVORABLE	42%
Somewhat unfavorable	20%
Very unfavorable	22%
Don't know	12%

If the November election for U.S. Senate was held today and the candidates were, [READ LIST] for whom would you vote?

Total

Q16

Democrat Harold Ford, Junior	44%
Republican Bob Corker	41%
Don't know	15%

Do you lean toward either Ford or Corker?

Q17

Total

Yes - Ford	15%
Yes - Corker	27%
No	27%
Don't Know	31%

If the November election for Governor was held today and the candidates were [READ LIST] for whom would you vote?

Q18

Total

Democrat Phil Bredesen	66%
Republican Jim Bryson	21%
Don't know	13%

Do you lean toward either Bredesen or Bryson?

Q19

Total

Yes - Bredesen	13%
Yes - Bryson	13%
No	25%
Don't Know	49%

Phil Bredesen

Q20

Total

EXCELLENT/GOOD	65%
Excellent	18%
Good	47%
FAIR/POOR	31%
Fair	24%
Poor	7%
Don't Know	4%

George W. Bush

Q21	Total
EXCELLENT/GOOD	37%
Excellent	13%
Good	24%
FAIR/POOR	61%
Fair	25%
Poor	36%
Don't Know	2%

Stand up to special interests. Do you trust Democrat Harold Ford Junior or Republican Bob Corker to do this? [IF FORD OR CORKER, THEN ASK:] Do you trust him much more or somewhat more than the other candidate?

Q22	Total
MORE FORD	42%
Democrat Harold Ford Junior - much more	31%
Ford - somewhat more	11%
MORE CORKER	35%
Corker - somewhat more	15%
Republican Bob Corker - much more	21%
Neither	9%
Both	2%
Don't Know	12%

Represent the best interests of middle class Tennessee residents. Do you trust Democrat Harold Ford Junior or Republican Bob Corker to do this? [IF FORD OR CORKER, THEN ASK:] Do you trust him much more or somewhat more than the other candidate?

Q23	Total
MORE FORD	47%
Democrat Harold Ford Junior - much more	34%
Ford - somewhat more	13%
MORE CORKER	39%
Corker - somewhat more	15%
Republican Bob Corker - much more	24%
Neither	6%
Both	1%
Don't Know	8%

Make our borders secure from illegal aliens. Do you trust <Q24F1> or <Q24F2> to do this? [IF FORD OR CORKER, THEN ASK:] Do you trust him much more or somewhat more than the other candidate?

Q24	Total
MORE FORD	35%
Democrat Harold Ford Junior - much more	26%
Ford - somewhat more	10%
MORE CORKER	39%
Corker - somewhat more	15%
Republican Bob Corker - much more	24%
Neither	10%
Both	2%
Don't Know	13%

Bring the change we need in Washington. Do you trust <Q25F1> or <Q25F2> to do this? [IF FORD OR CORKER, THEN ASK:] Do you trust him much more or somewhat more than the other candidate?

Q25	Total
MORE FORD	43%
Democrat Harold Ford Junior - much more	30%
Ford - somewhat more	13%
MORE CORKER	37%
Corker - somewhat more	14%
Republican Bob Corker - much more	23%
Neither	9%
Both	1%
Don't Know	10%

Close tax loopholes for big corporations and multi-millionaires. Do you trust <Q26F1> or <Q26F2> to do this? [IF FORD OR CORKER, THEN ASK:] Do you trust him much more or somewhat more than the other candidate?

Q26	Total
MORE FORD	43%
Democrat Harold Ford Junior - much more	32%
Ford - somewhat more	11%
MORE CORKER	23%
Corker - somewhat more	11%
Republican Bob Corker - much more	13%
Neither	18%
Both	1%
Don't Know	15%

Develop alternative sources of energy to end our dependence on oil. Do you trust <Q27F1> or <Q27F2> to do this? [IF FORD OR CORKER, THEN ASK:] Do you trust him much more or somewhat more than the other candidate?

Q27	Total
MORE FORD	44%
Democrat Harold Ford Junior - much more	32%
Ford - somewhat more	12%
MORE CORKER	31%
Corker - somewhat more	16%
Republican Bob Corker - much more	15%
Neither	10%
Both	2%
Don't Know	13%

Have you heard or read anything about Democratic Senate candidate Harold Ford recently?

Q28	Total
Yes	69%
No	29%
Don't Know	1%

Did this make you...[READ LIST]...toward Harold Ford?

Q29	Total
MORE FAVORABLE	42%
Much more favorable	25%
Somewhat more favorable	17%
LESS FAVORABLE	37%
Somewhat less favorable	18%
Much less favorable	20%
Don't Know	21%

What did you hear or read that made you more favorable?

Q30	Total
TV ads/commercials	12%
Negative/attack ads by Corker	7%
Debate performance	7%
Not running a negative campaign	2%
Position on the war in Iraq/opposition to the war	6%
He's a Christian/religious influence	4%
For the people/cares about the working class	8%
Securing the borders	4%
He wants to do something about energy/gas prices	3%
I like his views on the issues	5%
Nothing/none	1%
More honest/trustworthy	2%
Time for a change	2%
His experience	2%
Newspaper articles/editorials	3%
Heard him speak	1%
Democrat/not Republican	1%
Straight forward	1%
Parties with Playmates	2%
Education plans	2%
Family connections/comes from a prominent family	1%
Missed a lot of votes	1%
Other	9%
Don't know	13%

What did you hear or read that made you less favorable?

Q31	Total
Negative/attack ads	22%
Debate performance	3%
Democrat/liberal	4%
Dishonest/untrustworthy	5%
Family connections/riding his family coat tails	7%
Family connections/family has corrupt history	7%
Missed too many votes/too many trips	8%
Been in Washington too long	4%
Religious connections/Christian influence	1%
Abortion stance/not pro-life	3%
Position on border security	3%
Supporters/famous connections (Clinton, Streisand, etc.)	1%
Positions on issues	4%
Waffler/changes his positions	2%
He'll raise taxes	1%
Don't like him	3%
Partying with playmates	1%
Other	5%
Don't know	15%

What did you hear or read?

Q32

Total

TV ads/commercials	13%
Negative/attack ads	21%
Can't tell if he can do what he says	1%
Positions on border security	3%
Family connections/family history	4%
Comments that he made from the church	2%
Took trips/junkets	4%
His record/experience	2%
Positions on the issues	6%
Newspaper articles	2%
Other	11%
Don't know	32%

Have you heard or read anything about Republican candidate Bob Corker recently?

Q33

Total

Yes	70%
No	28%
Don't Know	2%

Did this make you...[READ LIST]...toward Bob Corker?

Q34

Total

MORE FAVORABLE	35%
Much more favorable	16%
Somewhat more favorable	19%
LESS FAVORABLE	47%
Somewhat less favorable	18%
Much less favorable	28%
Don't Know	18%

What did you hear or read that made you more favorable?

	Total
Q35	
TV ads/commercials	6%
Negative/attack ads	5%
Debates/debate performance	5%
Former mayor of Chattanooga	15%
Business record/self made man	9%
Immigration/border security issues	11%
Hired illegal immigrants	2%
Everything/I know a lot about him	3%
Positions on issues	5%
Support for Iraq War	2%
His record/experience	4%
Taxes/wants to lower taxes	4%
Corker is more believable/trustworthy than Ford	2%
Ford has missed too many votes	1%
Upbringing/family history	1%
Pamphlets/campaign literature	2%
Forthright/straight forward answers to questions	3%
Other	6%
Don't know	15%

What did you hear or read that made you less favorable?

	Total
Q36	
TV ads/commercials	9%
Negative/attack ads	23%
Lies/things he is saying are untrue	4%
Debate performance	6%
Hires illegal immigrants	11%
He is wealthy/for the wealthy	10%
Record as mayor of Chattanooga	5%
Financial dealings/land deals	6%
Gave himself a raise	1%
Newspaper articles/editorials	1%
Too arrogant	2%
The more he says, the more I dislike him	1%
Supports Bush on the War in Iraq	1%
Views on issues	4%
Economy/helping the middle class	1%
Other	5%
Don't know	10%

What did you hear or read?

Q37

	Total
TV ads/political commercials	25%
Negative/attack ads	16%
Employed illegal immigrants	7%
Immigration/border security	3%
Don't trust him	2%
Self made man	3%
Views on the issues	8%
His record/experience	3%
Other	9%
Don't know	23%

Harold Ford is slick, really slick. His tax record, that's a different story. Ford voted for higher taxes on social security, higher taxes on marriage, gas, children, and income. Ford wants higher taxes for working families, an average of \$2000 dollars per year, \$3000 dollars on small businesses, and Ford voted for higher death taxes. Harold Ford: smooth on camera, slick on taxes, wrong for Tennessee. Does this make you:

Q38

	Total
MORE LIKELY FORD	
Much more likely to vote for Ford	25%
Somewhat more likely to vote for Ford	17%
LESS LIKELY FORD	
Somewhat less likely to vote for Ford	8%
Much less likely to vote for Ford	53%
Don't know	17%
	36%
	22%

Given this, if the November election for U.S. Senate was held today and the candidates were [READ LIST] for whom would you vote?

Q39

	Total
Democrat Harold Ford, Junior	43%
Republican Bob Corker	46%
Don't know	11%

The fact is that on Bob Corker's watch as Mayor of Chattanooga (CHAT-UH-NEW-GUH), government spending increased more than \$23 million dollars. City debt jumped \$100 million dollars, and he raised property taxes by 24%. Harold Ford Junior is the only Senate candidate who has voted to cut taxes. 1.2 trillion dollars. And he supports a balanced budget amendment so government can not spend what it does not have. That's the difference a new generation of leadership represents. Given this, if the November election for U.S. Senate was held today and the candidates were [READ LIST] for whom would you vote?

	Total
Q40	
Democrat Harold Ford, Junior	48%
Republican Bob Corker	40%
Don't know	12%

Months after Harold Ford was appointed to the Congressional Committee on Financial Services, which oversees government-sponsored mortgage lender Fannie Mae, Ford's father - Harold Ford Senior - was hired as a lobbyist by Fannie Mae. They paid Ford Senior at least \$280,000 dollars in lobbying fees. And, Ford Junior received more than \$15,000 dollars in campaign contributions from Fannie Mae employees. And that's not all. We've even learned that Ford Senior had one of his lobbying clients pay for Junior to take a paid junket to Miami to attend a Christmas Party with his father. This is just business as usual for the Ford political machine. Does this make you [READ LIST]

	Total
Q41	
MORE LIKELY FORD	25%
Much more likely to vote for Ford	17%
Somewhat more likely to vote for Ford	8%
LESS LIKELY FORD	55%
Somewhat less likely to vote for Ford	17%
Much less likely to vote for Ford	37%
Don't know	20%

Given this, if the November election for U.S. Senate was held today and the candidates were [READ LIST] for whom would you vote?

	Total
Q42	
Democrat Harold Ford, Junior	45%
Republican Bob Corker	43%
Don't know	13%

Attacking Harold Ford Junior's dad is a new low for Bob Corker but Harold Ford Junior believes in turning the other cheek. Harold Ford Junior's father never lobbied him. In fact, when Fannie Mae wanted to pass major legislation in Congress, Harold Ford Junior voted against Fannie Mae and his father. More than ever we need a new generation of leadership that will focus on how to bring positive change for Tennessee families, not this kind of personal attack politics from Bob Corker. Given this, if the November election for U.S. Senate was held today and the candidates were [READ LIST] for whom would you vote?

	Total
Q43	
Democrat Harold Ford, Junior	45%
Republican Bob Corker	39%
Don't know	15%

Bob Corker says quote we should stay the course in Iraq. Harold Ford Junior says he has been to Iraq four times, he supports our troops, and he voted for the war but we should not stay the course as Mr. Corker wants. Even the President's own report says we are creating more terrorists than we are killing. America should always be strong, but we need to be smart and honest too. That's why Ford says we need a new direction to win this fight.

Does this make you [READ CHOICES AS NEEDED TO RE-PROMPT RESPONDENT]

	Total
Q44	
MORE LIKELY CORKER	32%
Much more likely to vote for Corker	20%
Somewhat more likely to vote for Corker	12%
LESS LIKELY CORKER	54%
Somewhat less likely to vote for Corker	15%
Much less likely to vote for Corker	39%
Don't know	14%

Several newspapers recently determined that as Mayor, Bob Corker convinced Chattanooga (CHAT-UH-NEW-GUH) to invest \$1 million dollars in city pension funds in a risky and speculative business called Delta that is managed by a Corker campaign contributor. The fund has since lost 12% of its value at a time when the stock market was stable. When the investment was under consideration by the city pension board, Corker never disclosed his relationship with the company, even though Corker lost at least a million dollars in a previous investment with Delta's management. Does this make you [READ CHOICES AS NEEDED TO RE-PROMPT RESPONDENT]

	Total
Q45	
MORE LIKELY CORKER	20%
Much more likely to vote for Corker	13%
Somewhat more likely to vote for Corker	7%
LESS LIKELY CORKER	63%
Somewhat less likely to vote for Corker	22%
Much less likely to vote for Corker	41%
Don't know	17%

Corker made more money during the 4 years he was Mayor than he did in all his years as a developer. In fact, as mayor, he directed city development efforts that raised the value of his own properties by \$18 million dollars. The city also struck a deal that allowed Corker to make millions by selling previously environmentally protected land to Wal-Mart. Corker always said he had no conflict because his assets were in a blind trust, but now we learn that Corker was personally involved in his business interests while he was Mayor, holding meetings with partners about business decisions.

Does this make you [READ CHOICES AS NEEDED TO RE-PROMPT RESPONDENT]

Q46

	Total
MORE LIKELY CORKER	20%
Much more likely to vote for Corker	13%
Somewhat more likely to vote for Corker	8%
LESS LIKELY CORKER	64%
Somewhat less likely to vote for Corker	21%
Much less likely to vote for Corker	42%
Don't know	16%

Bob Corker was finance commissioner for Governor Don Sundquist and mayor of Chattanooga (CHAT-UH-NEW-GUH). In almost 6 years holding public office, he never cut a tax. He says property taxes in Chattanooga are low, but he actually raised property taxes in Chattanooga 24 percent. He did nothing to stop Governor Sundquist from trying to impose a state income tax. What's more, he used tax loopholes to pay no tax on most of his millions of dollars in income. Does this make you [READ CHOICES AS NEEDED TO RE-PROMPT RESPONDENT]

Q47

	Total
MORE LIKELY CORKER	20%
Much more likely to vote for Corker	13%
Somewhat more likely to vote for Corker	7%
LESS LIKELY CORKER	62%
Somewhat less likely to vote for Corker	19%
Much less likely to vote for Corker	42%
Don't know	19%

Given this, if the November election for U.S. Senate was held today and the candidates were ...[READ LIST]... for whom would you vote?

Q48

	Total
Democrat Harold Ford, Junior	47%
Republican Bob Corker	38%
Don't know	15%

Tennessee allows people to vote early, beginning 20 days before the election, or on election day, which is November 7. Do you intend to vote early or on election day?

Q49	Total
Early	57%
Election day	36%
Don't know	8%

How often do you attend religious services?

Q50	Total
Daily	4%
Weekly	59%
About monthly	11%
Rarely or never	21%
Don't know	4%

Which term applies best to you:

Q51	Total
Married	74%
Single, never married	7%
Widowed	9%
Divorced	7%
Not married but with a partner	0%
Don't know	3%

Do you have any children under age 18 living at home?

Q52	Total
Yes	21%
No	77%
Don't know	2%

Which of the following categories best describes your age?

Q53	Total
18-24	2%
25-34	4%
35-49	17%
50-64	35%
65-69	15%
70+	23%
Don't know/refused	3%

For statistical purposes only, we need to know your total family income for 2005. Will you please tell me which of the following categories best represents your total family income?

	Total
Q54	
Less than \$20,000	12%
\$20,000-\$34,999	10%
\$35,000-\$59,999	21%
\$60,000-\$99,999	20%
\$100,000 - \$124,999	4%
\$125,000 or more	6%
Don't know/refused	27%

Do you generally consider yourself liberal, moderate, or conservative?

	Total
Q55	
Liberal	13%
Moderate	34%
Conservative	44%
Don't know	9%

What is your ethnic background?

	Total
Q56	
White	82%
Hispanic/Latino	1%
African American	11%
Asian	0%
Other	3%
Don't know	3%

Do you consider yourself to be of Hispanic descent?

	Total
Q57	
Yes	1%
No	95%
Don't know	4%

What is your religion?

Q58

	Total
PROTESTANT: Episcopal	4%
PROTESTANT: Baptist	37%
PROTESTANT: Lutheran	2%
PROTESTANT: Methodist	12%
PROTESTANT: Presbyterian	4%
PROTESTANT: Evangelical	1%
PROTESTANT: Other non-Catholic Christian	11%
Catholic	7%
Jewish	1%
Muslim/Islam	-
Other	11%
None	5%
Don't know/ Refused	5%

Do you consider yourself an evangelical or born-again Christian?

Q59

	Total
Yes - evangelical	7%
Yes - born again	62%
No	28%
Don't know	3%

Q16 HR with leaners

HRLEAN1

	Total
Democrat Harold Ford, Junior	46%
Republican Bob Corker	45%
No	4%
Don't Know	4%

Q18 HR with leaners

HRLEAN2

	Total
Democrat Phil Bredesen	68%
Republican Jim Bryson	23%
No	3%
Don't Know	6%

Party ID with leaners

Total

PARTYLEAN

Democratic	44%
Republican	40%
Neither	11%
Don't know	5%

Exhibit II

**BEFORE THE
FEDERAL ELECTION COMMISSION**

IN RE)
Interim Audit Report)
Tennessee Democratic Party)

DECLARATION OF RANDY BUTTON

1. During the 2006 general election campaign I was the Director of Tennessee Victory 2006 ("TV 2006"). TV 2006 was a project of the Tennessee Democratic Party ("TDP").

2. One of several projects that I was responsible for as Director of TV 2006 was to coordinate generic get-out-the-vote rallies on behalf of the entire Democratic ticket in Tennessee. These rallies were attended by party officers and activists and were not coordinated with or attended by federal candidates.

3. I have reviewed a list of twelve expenditures identified by the Federal Election Commission that were apparently invoiced to the Harold Ford, Jr. for Senate campaign.

4. In all but one instance, it is my belief that these invoices were incorrectly invoiced to the Ford campaign and should have been invoiced to the TDP. These eleven invoices represent a very small percentage of invoices received by the TDP and TV 2006 for its campaign operations. In my experience in campaigns, it is not uncommon for

vendors to mistakenly assume that they are undertaking work directly for candidates when they are working with that candidate's party.

5. It is my belief that the eleven invoices that were incorrectly invoiced to the Ford campaign were part of the TDP's generic get-out-the-vote rallies on behalf of the Democratic ticket. It is my recollection that Harold Ford, Jr. did not attend any of these rallies.

6. There is one invoice on the Commission's list from Exodus Productions that was for water bottles with "Ford for Tennessee" on the labels. I do not believe that these water bottles were not distributed in connection with the generic get-out-the-vote rallies and are properly allocable to the TDP's 441a(d) allocation for the United States Senate race.

I declare under penalties of perjury that the foregoing is true and correct to the best of my present knowledge, information and belief. Dated this 15th day of September, 2008.

Randy Button

Randy Button



Report of the Audit Division on the Tennessee Democratic Party

January 1, 2005 – December 31, 2006

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

Tennessee Democratic Party is a state party committee headquartered in Nashville, TN. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

- **Federal Receipts**
 - Contributions from Individuals \$ 1,771,653
 - Contributions from Other Political Committees 234,775
 - Transfers from Affiliated Party Committees 3,022,463
 - Transfers from Non-federal and Levin Funds 797,430
 - Other Receipts 48,176
 - **Total Federal Receipts** \$ 5,874,497
- **Federal Disbursements**
 - Operating Disbursements \$1,691,580
 - Transfers to Affiliated Committees 211,950
 - Independent Expenditures 912,496
 - Coordinated Party Expenditures 712,459
 - Federal Election Activity 2,237,958
 - Other Disbursements 160,981
 - **Total Federal Disbursements** \$5,927,424
- **Levin Receipts** \$319,869
- **Levin Disbursements** \$319,869

Findings and Recommendations (p. 3)

- Non-allocable Federal Election Activity Disclosed on Schedule H6 (Finding 1)
- Disclosure of Disbursements (Finding 2)

¹ 2 U.S.C. §438(b).

Report of the Audit Division on the Tennessee Democratic Party

January 1, 2005 – December 31, 2006

DRAFT



Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Part II. Overview of Committee	
Committee Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Findings and Recommendations	3
Part IV. Findings and Recommendations	
Finding 1. Non-allocable Federal Election Activity Disclosed on Schedule H6	4
Finding 2. Disclosure of Disbursements	10

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Part I

Background

Authority for Audit

This report is based on an audit of Tennessee Democratic Party (TDP), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

This audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions received.
4. The disclosure of disbursements, debts and obligations.
5. The disclosure of expenses allocated between federal, non-federal, and Levin accounts.
6. The consistency between reported figures and bank records.
7. The completeness of records.
8. Other committee operations necessary to the review.

Part II

Overview of Committee Committee Organization

Important Dates	Tennessee Democratic Party
• Date of Registration	May 18, 1983
• Audit Coverage	January 1, 2005 - December 31, 2006
Headquarters	Nashville, Tennessee
Bank Information	
• Bank Depositories	2
• Bank Accounts	7 federal, 3 non-federal, 1 Levin
Treasurer	
• Treasurer When Audit Was Conducted	Chip Forrester
• Treasurer During Period Covered by Audit	Robert Tuke & Delainia Davis
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Federal Cash on hand @ January 1, 2005	\$128,779
○ Contributions from Individuals	\$1,771,653
○ Contributions from Other Political Committees	234,775
○ Transfers from Affiliated Party Committees	3,022,463
○ Transfers from Non-federal and Levin Funds	797,430
○ Other Receipts	48,176
Total Federal Receipts	\$6,003,276
○ Operating Disbursements	\$1,691,580
○ Transfers to Affiliated Committees	211,950
○ Independent Expenditures	912,496
○ Coordinated Party Expenditures	712,459
○ Federal Election Activity	2,237,958
○ Other Federal Disbursements	160,981
Total Federal Disbursements	\$5,927,424
Federal Cash on hand @ December 31, 2006	\$75,852
Levin Cash on hand @ September 26, 2006	\$0
Total Levin Receipts	\$319,869
Total Levin Disbursements	\$319,869
Levin Cash on hand @ December 31, 2006	\$0

Part III

Summaries

Findings and Recommendations

Finding 1. Non-allocable Federal Election Activity Disclosed on Schedule H6

A review of disbursements revealed that non-allocable federal election activity was paid with Levin funds and reported on Schedule H6 (Disbursements of Federal and Levin Funds for Allocated Federal Election Activity). Payments, totaling \$98,321, for polls, automated phone banks, and campaign rallies were allocated as 21% federal and 79% Levin. As a result, the Levin fund paid \$77,674. However, a clearly identified candidate running for federal office was addressed in each of the above activities/programs. The Audit staff recommended that TDP demonstrate that polls, automated phone banks, and campaign rallies represented allocable federal election activity or take the appropriate action. In response, TDP agreed that the automated phone banks were not allocable federal election activity, but disagreed with the recommendation concerning the polls and the campaign rallies. (For more detail, see p. 4)

Finding 2. Disclosure of Disbursements

A sample review of itemized expenditures revealed that for approximately 18% of the items tested TDP did not disclose the payees' addresses. The Audit staff recommended that TDP file amended reports to disclose the missing information. In response, TDP filed amended reports disclosing the missing information and materially correcting the public record. (For more detail, see p. 10)

Part IV

Findings and Recommendations

Finding 1. Non-allocable Federal Election Activity Disclosed on Schedule H6

Summary

A review of disbursements revealed that non-allocable federal election activity was paid with Levin funds and reported on Schedule H6 (Disbursements of Federal and Levin Funds for Allocated Federal Election Activity). Payments, totaling \$98,321, for polls, automated phone banks, and campaign rallies were allocated as 21% federal and 79% Levin. As a result, the Levin fund paid \$77,674. However, a clearly identified candidate running for federal office was addressed in each of the above activities/programs. The Audit staff recommended that TDP demonstrate that polls, automated phone banks, and campaign rallies represented allocable federal election activity or take the appropriate action. In response, TDP agreed that the automated phone banks were not allocable federal election activity, but disagreed with the recommendation concerning the polls and the campaign rallies.

Legal Standard

- A. Reporting Allocable Expenses between Federal Funds and Levin Funds.** A State, district, or local political party committee that makes a disbursement for Federal election activity that is allocated between Federal funds and Levin funds must state the category of Federal election activity for which each allocable disbursement was made. 11 CFR §300.36(b)(2)(i)(B).
- B. Categories of Allocable Federal Election Activity.** A State, district, or local political party committee may allocate disbursements between Federal funds and Levin funds for:
- Voter Registration Activity;
 - Voter Identification;
 - Get-Out-The-Vote Activity; and
 - Generic Campaign Activity. 11 CFR §300.33(a)(1) and (2).
- C. Categories of Non-Allocable Federal Election Activity.** The following costs incurred by State, district, and local party committees and organizations must be paid for only with federal funds:
- A public communication that refers to a clearly identified candidate for federal office and that promotes, attacks, supports or opposes any candidate for federal office. 11 CFR §300.33(c).
- D. Coordinated Party Expenditures.** National party committees and state party committees are permitted to purchase goods and services on behalf of candidates in

the general election—over and above the contributions that are subject to contribution limits.

Such purchases are referred to as “coordinated party expenditures.” They are subject to the following rules:

- The amount spent on “coordinated party expenditures” is limited by statutory formulas that are based on the Cost of Living Adjustment (COLA) and the voting age population.
- Party committees are permitted to coordinate the spending with the candidate committees.
- The parties may make these expenditures only in connection with the general election.
- The party committees—not the candidates—are responsible for reporting these expenditures.
- If the party committee exceeds the limits on coordinated party expenditures, the excess amount is considered an in-kind contribution, subject to the contribution limits.
- A national or state party committee may assign all or part of its coordinated party spending authority to another party committee, 2 U.S.C. §441a(d) and 11 CFR §§109.32(b) and 109.33(a).

E. Assignment of Coordinated Party Expenditure Limit. A political party may assign its authority to make coordinated party expenditures authorized by 11 CFR §109.32 to another political party committee. Such an assignment must be made in writing, must state the amount of the authority assigned, and must be received by the assigned committee before any coordinated party expenditures is made pursuant to assignment. 11 CFR §109.33(a).

Facts and Analysis

During our review, the Audit staff identified payments, totaling \$98,321, for polls, automated phone banks, and campaign rallies. TDP considered these expenditures to be allocable federal election activity and allocated each payment as 21% federal and 79% Levin. As a result, the Levin fund paid \$77,673.

The poll questions and the automated phone bank scripts both refer to a clearly identified candidate for federal office. Invoices for expenses associated with campaign rallies were billed to the federal candidate’s campaign but paid by TDP. It is the opinion of the Audit staff that these types of expenditures do not qualify as allocable federal election activity and should have been paid entirely by the federal account; some of which appear to represent coordinated party expenditures.

Polls – TDP paid \$24,500 for two statewide tracking polls conducted during the period October 14, 2006 through October 28, 2006. Poll questions related to a candidate running for election to the United States Senate and a candidate for Governor of Tennessee. The majority of the questions related to the senate election. The cost of the polls can not be allocated between the federal account and Levin fund since both polls refer to a clearly identified candidate running for federal office. As such, the cost should

have been paid entirely by the federal account. The federal account should reimburse the Levin fund \$19,355 ($\$24,500 \times 79\%$).

Automated Phone Banks – TDP paid \$36,400 for two automated phone bank programs. The phone scripts for both programs refer to a clearly identified candidate running for federal office. As such, this cost can not be considered allocable federal election activity and paid for with Levin funds. The federal account should reimburse the Levin fund \$28,756 ($\$36,400 \times 79\%$).

Further, the cost of this program (\$36,400) appears to represent coordinated party expenditures on behalf of Harold Ford, Jr., candidate for the United States Senate. The first phone script was narrated by the Governor of Tennessee (Governor Script), who was running for re-election. He asked for “your support and your vote.” He also asked that “you support Harold Ford, Jr.”, and continued to speak on his behalf. He closes by stating, “vote for me, Harold Ford, Jr., and all of our great democratic candidates running for election.” The script concluded with a second speaker stating, “paid for by the Tennessee Democratic Party” and “approved and authorized by Harold Ford, Jr. for Tennessee.”

The second phone bank script was narrated by former president Bill Clinton (Clinton Script). He asked that “everyone go to the polls and take someone with you who hasn’t voted.” He also stated that “Tennessee has an historic chance to send Harold Ford, Jr. to the United States Senate,” and continued talking on his behalf. He ended by telling “everyone to go to the polls and vote.” The script concluded with a second speaker stating, “paid for by the Tennessee Democratic Party” and “approved and authorized by Harold Ford, Jr. for Tennessee.”

It appears that the automated phone program was coordinated with Harold Ford, Jr. since the caller stated that the candidate approved and authorized each phone script. Further, the contracts for each phone bank program were signed by Jim Hester, representing TDP. His email addresses at both TDP and at the candidate’s campaign headquarters were listed on one of the contracts. Finally, prior to the date of each contract, Mr. Hester was employed by the candidate’s campaign.

The Audit staff has allocated the cost of the Governor Script one-third (Governor), one-third (Harold Ford, Jr.), and one-third to all other (unnamed) candidates running for election. Therefore, \$6,300 ($\$18,900 \times 33\%$) represented a coordinated expenditure on behalf of Harold Ford, Jr. Further, since Harold Ford, Jr. is the only candidate named in the Clinton Script, the entire cost (\$17,500) represents a coordinated expenditure on behalf of Harold Ford, Jr.

Campaign Rallies - The Audit staff identified payments, associated with 12 invoices, totaling \$37,421, which were dated in October 2006 and addressed to Harold Ford’s campaign. The invoices denoted, “Bill to Harold Ford Jr.” or “Prepared for Harold Ford for Senate Campaign” or “Sold to Harold Ford Jr. Campaign.” Each disbursement was

reported as generic get-out-the-vote activity and disclosed on Schedule H6 as allocable federal election activity.

These payments do not appear to represent the cost of generic get-out-the-vote activities since the rallies appear to benefit Harold Ford, Jr. Therefore, the cost of this activity should have been paid entirely by the federal account. As such, the federal account should reimburse the Levin fund \$29,563 ($\$37,421 \times 79\%$).

Further, the Audit staff believed these disbursements represent coordinated party expenditures on behalf of Harold Ford, Jr. As previously stated, the invoices contained notation as either billed to, prepared for, or sold to the Harold Ford Campaign. The invoices represented expenditures for Harold Ford campaign rallies, such as, tents, staging, refreshments, audio, parking and clean-up. One invoice was for custom labeled bottled water – label name “Ford for Tennessee Bottled Water.” Another invoice described the event name as a “Political Rally for Harold Ford, Jr.”

Coordinated Party Expenditure Limit – TDP’s coordinated expenditure limit for a United State Senate candidate from the state of Tennessee was \$362,200. The national party committee has the same limit; which was assigned to TDP. Therefore, TDP could make coordinated expenditures of behalf of Harold Ford, Jr. in the amount of \$724,400.

TDP reported on Schedule F (Itemized Coordinated Party Expenditures Made by Political Party Committees or Designated Agent(s) on Behalf of Candidates for Federal Office) coordinated party expenditures on behalf of Harold Ford, Jr. totaling \$712,459. With the addition of the cost for the automated phone bank (\$23,800 [$\$6,300 + \$17,500$]) and campaign rallies (\$37,421), it appears that TDP exceeded the limitation by \$49,280 ($\$773,680 - \$724,400$). The normal remedy would be for the Ford campaign to reimburse TDP \$49,280. However, since the Ford campaign transferred \$154,000 in excess campaign funds to TDP on November 6, 2006, the Audit staff considers this matter to be timely resolved; requiring no further action.

This matter was discussed at the exit conference. TDP representatives received copies of the documentation in order to further review these issues.

In response to the exit conference, the former director of Tennessee Victory 2006 submitted a signed statement that addressed four campaign rally invoices, totaling \$17,401. With respect to each, he stated Tennessee Victory 2006 expenditures were incorrectly invoiced to the Harold Ford Jr. campaign; the expenditures were related to generic get-out-the-vote activities; activities were not planned or conducted in coordination with any federal candidates; and, no federal candidates attended these events. The response did not address the polls or automated phone banks.

Two of the invoices addressed in the response, Jackson Centre (\$1,522) and Royal Reed Catering (Jackson Centre Menu - \$8,120) contain references to Harold Ford, Jr. The Jackson Centre invoice refers to the event name as “Political Rally for Harold Ford, Jr.”

The Royal Reed Catering invoice “order info” section appears to have had Harold Ford, Jr.’s name on the first line but that information has been redacted.

Interim Audit Report Recommendation

The Audit staff recommended that TDP demonstrate that expenditures:

- For polls, automated phone banks, and campaign rallies represented allocable federal election activity; or

Absent such evidence, the federal account should have reimbursed the Levin Fund \$77,674 (polls \$19,355, automated phone banks \$28,756, campaign rallies \$29,563) and filed amended reports disclosing the expenditures on Schedule B or Schedule F as appropriate (see below).

- For automated phone banks and campaign rallies did not represent coordinated party expenditures on behalf of Harold Ford, Jr.; or

Absent such evidence, TDP should have filed amended reports disclosing expenditures for the automated phone banks \$23,800 (\$6,300 + \$17,500) and campaign rallies (\$37,421) as coordinated party expenditures on Schedule F.

Committee Response to Recommendation and Audit Staff's Assessment

In response, Counsel for TDP (Counsel) stated:

Polls – Counsel acknowledged that the cost of the polls should not have been reported on Schedule H6 but indicated this cost should have been reported on Schedule H4 (Disbursements for Allocated Federal/Nonfederal Activity); as shared operating expenditures. Counsel further stated, the tracking polls were conducted to get a sense of issues and voting trends based on general polling principals; the polls did not promote, support, attack or oppose any federal candidate; the polls did not constitute generic campaign activity; the polls did not constitute voter registration activity; the polls did not constitute get-out-the-vote activity; and, most importantly the polls did not constitute voter identification activity. TDP amended its reports to reflect the cost for the polls on Schedule H4; allocating \$5,145.00 (21%) to the federal account and \$19,355 (79%) to the non-federal account.

It remains the opinion of the Audit staff that the cost of the polls represented federal election activity that should have been paid solely by the federal account and not allocable as a shared activity. The telephone interviews of 600 likely voters occurred (in October 2006) within the FEA time frame and represents voter identification activity. As stated in the *Facts and Analysis* section, both polls refer to clearly identified candidates running for federal office. Among the questions asked of callers were their opinions about the favorability of the Federal candidates; whether they would vote for a certain federal candidate; and their opinion of various issues that are important for their U.S.

Senator. On its disclosure reports, TDP identified the type of allocated activity for each payment to the vendor as “voter identification.”

Automated Phone Banks – Counsel acknowledged that the automated phone calls included advocacy for a Federal candidate and should not have been disclosed on Schedule H6. TDP filed amended reports to disclose 50% of the cost of the Governor Script on Schedule B (\$9,450) and 50% on Schedule F. The entire cost of the Clinton Script was disclosed on Schedule F. According to Counsel, it is TDP’s belief that, despite their disclosure on Schedule H6, no allocation transfer was made in connection with these expenditures.

The Audit staff and Counsel agree that the expenditures were coordinated and reportable on Schedule F, although TDP has concluded that 50% of the cost of the Governor’s Script represents coordinated spending; whereas, the Audit staff concluded a lesser percentage (33%).

TDP’s assertion that the Levin Fund may not have made a transfer of funds for the automated phone bank cost is possibly correct. TDP reported on Schedule H6 shared activity totaling \$715,056; the Levin Fund portion being \$564,894 ($\$715,056 \times 79\%$). However, the Levin Fund reported only \$319,399 in transfers to the federal account for its portion of shared activity. Therefore, unreimbursed Levin reported activity totaled \$245,495 ($\$564,894 - \$319,399$); this amount was paid by the federal account. The overpayment by the federal account eliminates the need for any reimbursements by the Levin Funds for the cost of the automated phone banks, poll, or campaign rallies.

Campaign Rallies – Counsel stated that TDP believes the invoices represented generic campaign activity; that it is not uncommon for vendors to confuse a party organization with the campaign of a candidate; and, that the invoices were incorrectly sent to the Harold Ford campaign. The response also included an affidavit from a TDP’s Director of Tennessee Victory 2006. He attests that of the twelve invoices, eleven were incorrectly invoiced to the Harold Ford campaign. The remaining invoice, for custom-labeled bottled water, TDP agreed was a coordinated expenditure and amended its reports to disclose this expense on Schedule F.

Counsel has been consistent with its assertion that the invoices were incorrectly billed to the candidate. However, as stated above the invoices indicated that the services were provided to the Harold Ford Campaign. The Audit staff stands by its original analysis that the expenditure were coordinated on behalf of Harold Ford and should have been reported on Schedule F.

Conclusion

TDP filed amended reports that correctly disclosed the cost of automated phone banks on Schedule F. However, it remains the opinion of the Audit staff that the cost of the polls should have been disclosed on Schedule B and the cost of campaign rallies should have been disclosed on Schedule F; they were not.

Finding 2. Disclosure of Disbursements

Summary

A sample review of itemized expenditures revealed that for approximately 18% of the items tested TDP did not disclose the payees' addresses. The Audit staff recommended that TDP file amended reports to disclose the missing information. In response, TDP filed amended reports disclosing the missing information and materially correcting the public record.

Legal Standard

Reporting Operating Expenditures. When operating expenditures to the same person exceed \$200 in a calendar year, the committee must report the:

- Amount;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose (a brief description of why the disbursement was made). 2 U.S.C. §434(b)(5)(A) and 11 CFR §104.3(b)(3)(i).

Facts and Analysis

A sample review of itemized expenditures revealed that for 18% of the items tested, TDP did not disclose the payees' addresses. The majority of the disbursements lacking addresses related to canvassers whose mailing address was noted in TDP's records. This issue was discussed during the exit conference. TDP representatives had no significant comments.

Interim Audit Report Recommendation and Committee's Response

The Audit staff recommended that TDP file amended reports to disclose the missing information.

In response, Counsel wrote that they have, "engaged extensive efforts to locate the missing information and will file amendments to include the address which it has located." TDP did file amended reports disclosing the missing information that materially corrected the public record.



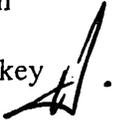
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 22, 2009

MEMORANDUM

TO: John D. Gibson
Chief Compliance Officer

Joseph F. Stoltz
Assistant Staff Director
Audit Division

THROUGH: Robert A. Hickey 
Staff Director

FROM: Christopher Hughey 
Deputy General Counsel

Lawrence L. Calvert, Jr. 
Associate General Counsel
General Law and Advice

Lorenzo Holloway 
Assistant General Counsel
Public Finance and Audit Advice

Danita C. Lee 
Attorney

SUBJECT: Report of the Audit Division on Tennessee Democratic Party (LRA #772)

I. INTRODUCTION

The Office of General Counsel reviewed the Report of the Audit Division ("Proposed Report") on the Tennessee Democratic Party ("Committee") submitted to this Office on December 17, 2008. We concur with any findings not specifically discussed in this memorandum. In this memorandum, we address issues pertaining to the Committee's disclosure on schedule H6 of non-allocable Federal election activity (Finding 1). The Proposed Report found that the Committee improperly paid non-allocable Federal election activity ("FEA") with Levin funds and reported these transactions as Disbursements of Federal and Levin Funds for Allocated Federal Election Activity (on Schedule H6). The allocated amount includes payments for campaign rallies, polls, and automated phone banks. The Proposed Report concludes that the disbursements were non-allocable FEA because each of the Committee activities referred

to a clearly identified Federal candidate. We raise some proof questions about the auditors' conclusion that the payments for the rallies were not allocable because the communications at the rallies referenced a clearly identified Federal candidate. We recommend that the auditors raise this issue in the cover memorandum that forwards the Proposed Report to the Commission. We recommend that the Audit Division accede to the Committee's position as to whether the polls constituted FEA because the Committee did not use the polls to collect information to identify voters, but we concur with the Audit Division's conclusion that the polls constituted FEA because the poll questions promoted, supported, attacked, or opposed Federal candidates. We agree that payments for the phone banks should not have been allocated, but we recommend that the auditors clarify the analysis in the Proposed Report regarding the automated phone bank allocation. If you have any questions, please contact Danita C. Lee, the attorney assigned to this audit.

II. NON-ALLOCABLE FEDERAL ELECTION ACTIVITY DISCLOSED ON SCHEDULE H6 (Finding 1)

A. Background

The auditors found that some of the Committee's campaign rallies, polls, and automated phone banks were FEA that included references to a clearly identified candidate running for Federal office and concluded that expenses for these activities should not have been allocated between the Federal account and the Levin fund. Rather, the Proposed Report concludes, these expenses should have been paid entirely by the Federal account. The auditors identified 12 invoices directed to a specific Federal candidate that the Committee paid, reported as "generic get-out-the-vote" ("GOTV") activity, and disclosed as allocable FEA. The Committee submitted an affidavit contending that all but one of the invoices was improperly labeled and that the campaign rallies were for "generic GOTV." The Committee states that its polls were not FEA and that the costs should have been properly reported as operating expenditures. The Committee agrees with the auditors that the automated phone bank expenses were not allocable Federal election activity. We discuss the specifics of each of these findings in the remainder of this memorandum.

B. Commission Must Decide Whether Campaign Rally Invoices Represent GOTV activity

The auditors identified payments associated with 12 apparent campaign rally invoices totaling \$37,421 that were addressed to or referenced events on behalf of candidate Harold Ford, Jr. The respective invoices stated, "Prepared for Harold Ford for Senate Campaign," "Sold to Harold Ford Jr. Campaign," or "Bill to Harold Ford Jr." The Committee paid the invoices which were for items or services such as tents, staging, refreshments, audio, parking, and clean-up. The Committee reported the disbursements for the invoices as "generic GOTV" activities and disclosed them on Schedule H6 as Federal election activity allocable between Federal and Levin funds.

The auditors conclude that the Committee's payments for the invoices were not for generic GOTV. The auditors conclude that the invoices show that the services were for campaign rallies benefitting and, apparently, incurred by the Senate candidate, Harold Ford, Jr. The Committee conceded that one invoice was for the benefit of the Ford campaign. It stated that the remaining 11 invoices were improperly labeled by the vendors as services provided to the Ford campaign. The Committee submitted a declaration from Randy Button, the Director of Tennessee Victory 2006, a Committee project, stating that the costs associated with the rallies were not for the Ford campaign. Mr. Button said that the invoices should have been invoiced to the Committee, the services or items provided were for generic GOTV rallies, the rallies were not coordinated with any Federal candidate, and no Federal candidates attended the rallies.

A state committee of a political party that makes expenditures or disbursements for Federal election activity must use Federal funds for that purpose. 11 C.F.R. § 300.32(a)(2). Paying an invoice incurred by a Federal candidate's authorized committee may or may not be FEA, but it is unquestionably a coordinated party expenditure, subject to limit pursuant to 2 U.S.C. § 441a(d), and also payable with 100% Federal funds. 11 C.F.R. § 109.32(b); 11 C.F.R. § 106.7(b). A state committee, however, may spend Levin funds on Federal election activity for voter identification, GOTV, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot. 11 C.F.R. § 300.32(b)(1)(ii). The FEA for which the disbursement is made must not refer to a clearly identified candidate for Federal office. 11 C.F.R. § 300.32(c). A state committee may allocate disbursements or expenditures between Federal funds and Levin funds for voter identification, GOTV, or generic campaign activities. 11 C.F.R. § 300.33(a)(2).

While the Committee and the auditors reference "generic GOTV," there is a distinction between generic campaign activity and GOTV activity. Generic campaign activity means a public communication that promotes or opposes a political party and does not promote or oppose a clearly identified Federal candidate or a non-Federal candidate. 11 C.F.R. § 100.25. GOTV activity means contacting registered voters by telephone, in person, or by other individualized means, to assist them in engaging in the act of voting. 11 C.F.R. § 100.24(a)(3). GOTV activity includes, but is not limited to: (1) providing to individual voters information such as the date of the election, the-times when polling places are open, and the location of particular polling places; and (2) offering to transport or actually transporting voters to the polls. 11 C.F.R. § 100.24(a)(3)(i) and (ii).

Although the Committee reported the expenditures associated with the invoices as "generic GOTV" and the auditors also refer to the activities as "generic GOTV," generic campaign activity (and not GOTV) is the focal point of our analysis because the Committee states that the expenses were associated with rallies and invoices reference items and services normally associated with rallies such as tents, staging, audio, meals, parking and traffic management. Rallies generally do not involve assisting individuals by

individualized means in engaging in the act of voting.¹ The specific issue is whether there is sufficient documentation to show that the rallies constitute generic campaign activity.

Whether the documentation shows that there was generic campaign activity, however, is a close issue because there is little documentation on either side of the question. The documentation and/or information necessary to resolve the question may not be available and may not exist. Generic campaign activity may promote or oppose a political party but may not promote or oppose a clearly identified Federal or non-Federal candidate. 11 C.F.R. § 100.25. Whether a Federal candidate was promoted or opposed at the rallies depends on what was said at the rallies and what authorized signage was displayed. About this we know little or nothing. We have not uncovered any documentation or information either supporting or contradicting Mr. Button's declaration that the invoice expenditures were for generic activity. The auditors reviewed the documentation obtained during the course of the audit to determine whether invoices from other vendors might provide insight about the rallies. The auditors, however, did not identify other vendor invoices that could be linked to the rallies or that provided additional insight. The auditors reviewed the Ford committee's disclosure reports to determine whether the Ford committee used common vendors which might then reveal more information on the specifics of the rallies. The auditors found that the Ford campaign did not use common rally vendors. The audit did not uncover copies of invitations or announcements or the specific dates of the rallies. We do not have a copy of Mr. Ford's campaign itinerary during the time period covered by the invoices. Invitations or announcements might state the purpose of the rallies or indicate whether Mr. Ford or other candidates participated in the rallies. The dates of the rallies could be used to link Mr. Ford to rallies or be used to research media accounts of the rallies. Mr. Ford's itinerary might show which, if any, Committee rallies he attended. This Office also attempted to identify media accounts of the rallies but was unable to do so.

Accordingly, the Commission must weigh the information on the invoices themselves against Mr. Button's declaration that the invoices were mislabeled and his conclusory assertion that the rallies were generic, and determine what weight to give each. We recommend the auditors raise this issue, noting the lack of supporting documentation, in the cover memorandum that forwards the Proposed Report to the Commission.

C. Polls May Not Have Constituted Federal Election Activity

The Committee paid \$24,500 for two statewide telephone interview polls conducted between October 14, 2006 and October 28, 2006.² The polls' questions refer to

¹ The Committee may be reporting the expenses as GOTV because GOTV activity took place at the rally. The type of expenses noted on the invoices, however, do not indicate that the expenses were related to GOTV activity.

² The Committee originally reported the cost of polls on Schedule H6 as allocated between Federal and Levin funds. The Interim Audit Report correctly pointed out that polls could not be paid with Levin funds because they referred to clearly identified Federal candidates. The Committee responded by agreeing

two clearly identified candidates for the United States Senate and a candidate for Governor of Tennessee. The auditors conclude that the cost of the polls represented Federal election activity that should have been paid solely by the Federal account. The auditors identified four factors they believe support their conclusion that the polls should have been paid solely with Federal funds. The four factors are that: 1) the polling occurred within the FEA time frame as set forth in 11 C.F.R. § 100.24(a)(1); 2) the Committee initially disclosed the payments for the polls as “voter identification;” 3) the poll questions asked about the respondents’ personal impressions (“favorability/unfavorability”) of the Federal candidates; and 4) the polls asked respondents their likelihood of voting for specific Federal candidates. The auditors also explained to staff their belief that the nature and tone of the poll questions required that the polls be paid by Federal account funds. The Committee, in response to the interim audit report, stated that the polls were not FEA and that it used the polls internally to track information on the 2006 Federal and non-Federal elections and to get information regarding the views and opinions of Tennessee voters for general planning purposes. The Committee also said that it did not append any of the information collected from the polls to voter lists or voter files maintained by the Committee.

The auditors’ concerns about the polls relate to two ways in which activity can be FEA: voter identification, 11 C.F.R. § 100.24(a)(4), and, through the concern about the “nature and tone” of the questions, public communications that promote, attack, support or oppose (“PASO”) any candidate for Federal office, 11 C.F.R. § 100.24(b)(3). Their concerns led them to conclude that the polling expenditures should have been paid with Federal funds. Therefore, we examine whether the polls constitute either voter identification or PASO communications.

We begin by examining the meaning of voter identification. The regulations define voter identification, in part, as “acquiring information about potential voters” and also provide a non-exhaustive list of examples of voter identification. 11 C.F.R. § 100.24(a)(4). The list of examples include “obtaining voter lists” and “creating or enhancing voter lists by verifying or adding information about the voters’ likelihood of voting in an upcoming election or their likelihood of voting for a specific candidates.” *Id.* Nothing in the regulation, or in the Explanation and Justification for either the 2002 version of the regulation or the amendments adopted in 2006 in response to *Shays v. Federal Election Commission*, 337 F. Supp. 2d 28 (D.D.C. 2004), suggests that ordinary opinion polling is voter identification if no information about individual voters is supplied to the committee paying for the poll. We believe the plain language of the definition, noting that the information is used to create or enhance a list and the information is used in such a manner to recall the voters’ likelihood of voting or likelihood of voting for specific candidates, suggests that voter identification involves activity that identifies individual voters.

it had incorrectly *reported* payments on Schedule H6, but assented the polls could have been paid for as ordinary Federal/non-Federal operating expenses reportable on Schedule H4. The auditors’ position is that because the polls referred to candidates, occurred within the FEA time frame, and was voter identification activity, it had to be paid for with Federal funds.

The facts in this case do not show that the Committee collected and maintained information for these purposes. The Committee's interim audit report response states that it did not include any of the information from the polls in its voter lists or voter files. The results of the polls, which the Commission possesses, are presented only in terms of aggregate percentages. The auditors indicate that they do not have any information showing that the Committee used the poll results to identify individual voters. The fact that the Committee's polling occurred within the FEA time frame does not convert ordinary opinion polling to voter identification. Therefore, we conclude that the polls did not constitute voter identification.

The auditors have also asserted in staff conversations that the nature and tone of the poll questions promote, support, attack or oppose candidates for Federal office. Some of the poll questions contain positive and/or negative information about Federal candidates and ask if the recited statements make the listener more or less likely to vote for a candidate. However, in order to be so-called "type 3" FEA payable with 100% Federal funds, a communication must be both a "public communication" *and* must promote, support, attack or oppose a clearly identified candidate. 2 U.S.C. § 431(20)(a)(iii).

We believe that the poll phone banks constituted public communications in that there were more than 500 calls of a substantially similar nature within a 30-day period. 2 U.S.C. § 431(22) and (24); 11 C.F.R. § 100.28. We also believe the nature and tone of the positive and negative statements promoted, supported, attacked or opposed the named candidates.³ Thus, we concur with the auditors that the polls constituted "type 3" FEA. 2 U.S.C. § 431(20)(a)(iii).

D. Auditors Should Clarify the Purpose of Allocating Phone Bank Expenditures

The auditors indicate that the Committee paid \$36,400 for two automated phone bank programs. The scripts for both phone banks refer to a clearly identified candidate running for Federal office. The auditors, therefore, conclude that the costs of the phone banks can not be considered allocable FEA or paid with Levin funds. However, in the final paragraph of the Proposed Report's discussion on the automated phone banks, the auditors state that "the Audit staff has *allocated* the cost of the Governor Script . . ." (emphasis added). The auditors also conclude that the costs of the phone banks

³ The Office of General Counsel acknowledges that there may be some questions as to whether these types of polls support or attack named candidates. The polls in this case are similar to the polls in a recent Matter Under Review, MUR 5835. In MUR 5835 (Democratic Congressional Campaign Committee or "DCCC"), the Commission considered whether telephone calls containing negative statements about a Federal candidate required a disclaimer under 2 U.S.C. § 441d. Section 441d includes a list of modes of communications that require a disclaimer. The modes include newspaper, magazines, and "any other type of type of general public political advertising." In recommending probable cause to believe that the DCCC violated the disclaimer provision, the Office of General Counsel argued that a telephone bank was a mode of communication under 2 U.S.C. § 441d. We also argued that the telephone banks in that case included political advertising. The probable cause recommendation failed on a 2-3 vote (with one recusal).

represented coordinated party expenditures. We recommend the auditors clarify the Proposed Report to explain that the Audit staff must first allocate the phone bank expenditures between candidates, in accordance with 11 C.F.R. § 106.1, to determine the amount of coordinated party expenditures. Thus, the Proposed Report should make clear that the allocation is not related to FEA but instead is necessary to analyze the coordinated expenditures.

SANDLER, REIFF & YOUNG, P.C.

September 14, 2009

Mr. Thomas J. Nurthen
Audit Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Nurthen:

This letter will serve as the response of the Tennessee Democratic Party ("TDP") to the Draft Final Audit Report ("Audit Report") of the Federal Election Commission's Audit Division ("the Audit Division") for the period covering the TDP's financial activities for 2005 and 2006.

Although the Audit Report's recommendations will likely not lead to any resulting enforcement actions against the TDP, the committee believes that certain positions taken by the Audit Division in the Audit Report are incorrect as a matter of both fact and law and would like to address these issues at a brief hearing in accordance with the Commission's procedures regarding Draft Final Audit reports.

At this hearing, the TNDP would like to address:

- 1) the Audit Report's conclusion that the polls reviewed by the Audit Division qualify as a Federal Election Activity as defined by the Commission's regulations; and
- 2) the Audit Report's conclusion that generic rallies were allocable as coordinated expenditures on behalf of Harold Ford Jr. and whether these rallies were Federal Election Activity as defined by the Commission's regulations.

Specifically, the TNDP disputes the conclusion that the polls should have been paid solely with federal funds and that the polls were ordinary, allocable, administrative costs that should be disclosed on Schedule H4. After a review of the Draft Final Audit Report, it is unclear what provision the Audit Division is relying upon to determine that the poll is Federal Election Activity. The draft report refers to the fact that the polls were undertaken "within the FEA time frame."

However, the time frame is only relevant with respect to FEA that is for voter registration, voter identification, get-out-the-vote or generic activity. The Draft Report does not specify which provision covers the polling activity. The TNDP also believes that the poll was done as a legitimate polling activity and did not undertake for the purpose of promoting, supporting, attacking or opposing any federal candidate. It is common for a legitimate poll to test messaging through the use of statements that may attack or oppose a candidate. These polls are designed to obtain information regarding the party's candidates and opposing candidates and a political committee should not be forced to federalize a poll that test both federal and non-federal messages. To be sure, the committee did not place any information regarding the poll back to its voter file as contemplated by 11 C.F.R. § 100.25(a)(4).¹ The Commission's regulations and the BCRA were designed to limit the use of non-federal funds for communications that were targeted to influence voters. A poll in which only 1,000 persons were contacted would clearly fall short of that goal. Therefore, it is proper to disclose the polls on Schedule H4 and allocate the costs accordingly on the committee's administrative split.²

With respect to the invoices regarding generic rallies, the TNDP stands by its assertion that these invoices were mistakenly addressed to the Harold Ford campaign and were, in fact, for generic rallies sponsored by the TNDP. This appears to be the sole basis for the Audit Division's conclusion. This conclusion is based solely upon the mistaken invoices and ignores the sworn affidavit provided by the TNDP's campaign director. This affidavit was provided because the TNDP believed that it was important these activities be properly disclosed and represented in the Final Audit Report. Based upon the Audit Division's representation that the TNDP does not have any exposure with regard to the overuse of Coordinated Expenditure authority or non-federal funds, the TNDP has no incentive to misrepresent these facts, and the Commission should accept, as true, the representations made in Mr. Button's affidavit.³

¹ The Office of General Counsel appears to agree that the poll did not constitute voter identification activity. See Memorandum to John D. Gibson of May 22, 2009, p. 4-6. For the reasons stated above, we disagree with OGC's conclusion that the polls were a federal election activity in accordance with 2 U.S.C. § 431(20)(A)(iii).

² Recently, three Commissioners determined that a public opinion poll did not require a disclaimer. In a Statement of Reasons, the Commissioners explained the important distinctions between a "phone bank" and a public opinion poll. The same reasoning is applicable in this instance. See Statement of Reasons of Vice Chairman Matthew S. Peterson and Commissioners Caroline C. Hunter and Donald F. McGahn, MUR 5835.

³ Although the committee disclosed payments for these rallies on Schedule H6, the Commission may also wish to address whether a partybuilding rally is a "public communication" as defined in 11 C.F.R. § 100.26. This is a significant question since it will determine whether the non-federal portion of a generic rally that does not reference a federal candidate can be paid for with Levin funds (when there is no mention of any federal candidates) or whether a rally would merely be considered a "voter drive" activity as defined by 11 C.F.R. § 106.7(c)(5). In addition, the Commission should determine whether a rally should be considered a "coordinated communication" as defined by 11 C.F.R. § 109.21. Based upon the analysis of several Commissioners in MUR 5564, it appears that a rally may not be a public communication. See e.g. Statement of Reasons of Commissioner Chairman Robert D. Lenhard, MUR 5564, Statement of Reasons of Chairman Michael E. Toner, and Commissioners David M. Mason and Hans A. von Spakovsky, MUR 5604.

Mr. Thomas J. Nurthen
September 14, 2009
Page Three

If you require any further information, or have any other questions, please call me at (202)
479-1111.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil Reiff". The signature is fluid and cursive, with a large initial "N" and "R".

Neil Reiff
Counsel to the Tennessee Democratic Party