



**Final Audit Report on the
 Tennessee Republican Party
 Federal Election Account**

2011 JAN 20 A 8: 21

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)

The Tennessee Republican Party Federal Election Account is a state party committee headquartered in Nashville, Tennessee. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

- **Receipts**
 - Contributions from Individuals \$ 3,483,766
 - Contributions from Other Political Committees 367,326
 - Transfers from Affiliated/Other Party Committees 2,743,200
 - Transfers from Non-federal Account 555,805
 - All Other Receipts 22,980
 - **Total Receipts** \$ 7,173,077
- **Disbursements**
 - Operating Disbursements \$ 6,686,254
 - All Other Disbursements 406,753
 - **Total Disbursements** \$ 7,093,007

Commission Findings (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Contributions from Unregistered Political Organizations (Finding 2)
- Disclosure of Expenditures for Salary and Wages (Finding 3)

Additional Issue (p. 11)

- Expenditures Related to Bob Corker for Senate

¹ 2 U.S.C. §438(b).

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Part I

Background

Authority for Audit

This report is based on an audit of the Tennessee Republican Party Federal Election Account (TRP), 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 and other receipts.
4. The disclosure of disbursements, debts and obligations.
5. The disclosure of expenses allocated between federal and non-federal accounts.
6. The consistency between reported figures and bank records.
7. The completeness of records.
8. Other committee operations necessary to the review.

Changes to the Law

On December 1, 2005, following the decision of the U.S. Court of Appeals for the District of Columbia in *Shays v. FEC*, 337 F. Supp. 2d 28 (D.D.C. 2004), *aff'd*, 414 F.3d 76 (D.C. Cir. 2005), the Commission amended its rules to revise the method by which state, district and local party committees may pay the salaries, wages and fringe benefits of employees who spend 25 percent or less of their compensated time in a month on federal election activity (FEA) or activity in connection with a federal election (“covered employees”). The revised rule became effective on January 19, 2006. (See Finding 3, Disclosure of Expenditures for Salary and Wages).

Part II

Overview of Committee

Committee Organization

Important Dates	Tennessee Republican Party Federal Election Account
• Date of Registration	October 23, 1975
• Audit Coverage	January 1, 2005 - December 31, 2006
Headquarters	Nashville, Tennessee
Bank Information	
• Bank Depositories	Three
• Bank Accounts	12 Federal and 6 Non-federal accounts
Treasurer	
• Treasurer When Audit Was Conducted	Ed Roberson
• Treasurer During Period Covered by Audit	Joe R. Arnold (thru 2/17/05) Ed Roberson (2/18/05 to 5/26/09)
Management Information	
• Attended Commission 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)

Cash on hand @ January 1, 2005	\$ 5,973
Receipts	
○ Contributions from Individuals	\$ 3,483,766
○ Contributions from Other Political Committees	367,326
○ Transfers from Affiliated/Other Party Committees	2,743,200
○ Transfers from Non-federal Account	555,805
○ All Other Receipts	22,980
Total Receipts	\$ 7,173,077
Disbursements	
○ Operating Disbursements	\$ 6,686,254
○ All Other Disbursements	406,753
Total Disbursements	\$ 7,093,007
Cash on hand @ December 31, 2006	\$ 86,043

Part III

Summaries

Commission Findings

Finding 1. Misstatement of Financial Activity

On its reports as originally filed with the Commission, TRP underreported receipts by \$2,227,811 and disbursements by \$1,440,129 for calendar year 2006. In addition, a comparison of TRP's amended reports to bank records revealed a misstatement of receipts, disbursements and cash on hand in both 2005 and 2006. For 2005, TRP overstated beginning cash on hand by \$33,780, understated receipts by \$117,371, understated disbursements by \$77,948 and understated ending cash on hand by \$5,643. In 2006, receipts were understated by \$459,936, disbursements understated by \$159,582 and ending cash on hand was understated by \$294,475. In response to the Interim Audit Report recommendation, TRP amended its reports to materially correct the misstatements noted above. The Commission approved this finding. (For more detail, see p. 4)

Finding 2. Contributions from Unregistered Political Organizations

The Audit Staff's review of contributions from unregistered political organizations suggested that TRP received \$114,395 in contributions that may not have been made with permissible funds. TRP refunded \$38,125 of these, but not in a timely manner. In response to the Interim Audit Report recommendations TRP provided copies of the front and back of the negotiated contribution refund checks totaling \$71,845 and provided six check stubs for refunds, totaling \$4,325, issued but not yet negotiated. TRP's response did not address \$100 of these contributions. The Commission approved this finding. (For more detail, see p. 7)

Finding 3. Disclosure of Expenditures for Salary and Wages

TRP did not maintain monthly logs, time sheets or affidavits for its employees. In response to the Interim Audit Report recommendations, TRP provided some additional affidavits which stated that the covered employees did not spend more than 25% of their compensated time on federal election activities and amended its reports to reflect the remaining salary and payroll tax payments as wholly federal expenditures, which materially corrected the disclosure of the salaries. The Commission approved this finding. (For more detail, see p. 8)

Additional Issue

Expenditures Related to Bob Corker for Senate

TRP disclosed disbursements totaling \$721,093 as either federal election activity or federally funded operating disbursements in connection with numerous direct mail pieces in support of Bob Corker for Senate or in opposition to his opponent, Congressman Harold Ford, Jr. In response to the Interim Audit Report, TRP provided a description of the procedure used for handling a mail program by volunteers. The Report of the Audit Division stated that TRP's procedure did not qualify for the volunteer materials exemption and therefore resulted in an excessive coordinated contribution to Bob Corker for Senate, but recommended no further corrective action. In light of the lack of clarity regarding the amount of volunteer involvement needed to qualify for the volunteer materials exemption, the Commission did not approve the Audit staff's recommended finding by the required four votes. (For more detail, see p. 12)

Part IV

Commission Findings

Finding 1. Misstatement of Financial Activity

Summary

On its reports as originally filed with the Commission, TRP underreported receipts by \$2,227,811 and disbursements by \$1,440,129 for calendar year 2006. In addition, a comparison of TRP's amended reports to bank records revealed a misstatement of receipts, disbursements and cash on hand in both 2005 and 2006. For 2005, TRP overstated beginning cash on hand by \$33,780, understated receipts by \$117,371, understated disbursements by \$77,948 and understated ending cash on hand by \$5,643. In 2006, receipts were understated by \$459,936, disbursements understated by \$159,582 and ending cash on hand was understated by \$294,475.

In response to the Interim Audit Report, TRP amended its reports to materially correct the misstatements noted above.

The Commission approved this finding.

Legal Standard

Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the calendar year;
- The total amount of disbursements for the reporting period and for the calendar year; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4) and(5).

Facts and Analysis

A. Originally Reported Activity for 2006

1. Facts

As illustrated below, on the original disclosure reports filed with the Commission, TRP underreported receipts and disbursements for calendar year 2006.

Comparison of Originally Reported 2006 Activity to Reconciled Bank Totals			
	Reported	Bank Records	Discrepancy
Receipts	\$3,463,205	\$5,691,016	\$2,227,811 understated
Disbursements	\$4,274,905	\$5,715,034	\$1,440,129 understated

TRP subsequently amended its reports between 20 and 75 days after the original reports, showing an increase in financial activity. The amended reports partially corrected the errors.

Prior to the Interim Audit Report stage, the Audit staff discussed the increased activity issue with the TRP Controller. In his written response, the Controller agreed that the figures originally reported by TRP were understated; nevertheless, he did not believe this finding was warranted. The Controller explained that he attended an FEC conference in Florida in the summer of 2006 and inquired about what committees should do if, due to time constraints, they are unable to file the reports timely and accurately. The response was similar to the feedback he received from the Reports Analysis Division (RAD)² later that year. According to the Controller, he was again told to file the report on time and submit an amended report with the correct figures on a later date.

2. Interim Audit Report & Audit Division Recommendation

In the Interim Audit Report, the Audit staff recommended TRP provide any additional information or comments considered relevant to the misstatement of its original reports filed for 2006.

3. Committee Response to the Interim Audit Report

In response to the Interim Audit Report, TRP did not provide any additional comments on the misstatement of its reports as originally filed.

B. (Amended) Reported Activity for 2005 & 2006

1. Facts

The Audit staff reconciled (amended) reported activity to bank records for calendar years 2005 and 2006. The following charts outline the discrepancies for the beginning cash balances, receipts, disbursements, and the ending cash balances. The succeeding paragraphs explain why the differences occurred, if known.

2005 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2005	\$39,753	\$5,973	\$33,780 Overstated
Receipts	\$1,364,689	\$1,482,060	\$117,371 Understated
Disbursements	\$1,300,024	\$1,377,972	\$77,948 Understated
Ending Cash Balance @ December 31, 2005	\$104,418	\$110,061	\$5,643 Understated

The beginning cash on hand was overstated by \$33,780 and is unexplained, but likely resulted from prior period discrepancies.

² When committees call for guidance on what to do when they are unable to file a complete report timely, RAD advises them to file as complete a report as possible by the deadline, and then to file an amended report as soon as possible with any omitted information.

The understatement of receipts was the result of the following:

• Receipts from the Republican National Committee (RNC) not reported	\$ 20,300
• Transfer from the non-federal account not reported	5,000
• Receipt from an individual not reported ³	100,000
• Unexplained difference	<u>(7,929)</u>
Net understatement of receipts	<u>\$ 117,371</u>

The understatement of disbursements was the result of the following:

• Transfers to non-federal account not reported ⁴	\$ 91,864
• Unexplained difference	<u>(13,916)</u>
Net understatement of disbursements	<u>\$ 77,948</u>

The \$5,643 understatement of closing cash on hand was the result of the misstatements described above.

2006 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2006	\$104,418	\$110,061	\$5,643 Understated
Receipts	\$5,231,080	\$5,691,016	\$459,936 Understated
Disbursements	\$5,555,452	\$5,715,034	\$159,582 Understated
Ending Cash Balance @ December 31, 2006	-\$208,432 ⁵	\$86,043	\$294,475 Understated

The understatement of receipts resulted from the following:

• Receipts from other (mostly unregistered) political committees not reported	\$ 49,000
• Receipts from the RNC not reported	183,900
• Transfers from the non-federal account not reported	128,949
• The total on Schedule A for itemized contributions from individuals exceeded the amount reported on the Detailed Summary Page for the Post-General Report	10,000
• Unexplained difference	<u>88,087</u>
Understatement of receipts	<u>\$ 459,936</u>

The understatement of disbursements resulted from the following:

• Transfers to non-federal account not reported	\$ 14,050
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³ The excessive portion of this contribution (\$90,000) was timely resolved by transfer to the non-federal account.

⁴ This amount includes the \$90,000 transfer to the non-federal resolving the excessive contribution discussed in footnote 3.

⁵ The negative cash balance resulted from reporting errors; the balance in the bank was never negative. This column does not total correctly as a result of a discrepancy between the reported ending cash on one report and the beginning cash on the succeeding report (an \$11,522 understatement). On March 26, 2007, after the Audit Notification Letter, TRP amended this report and corrected the cash on hand balance.

• Net errors in reporting of disbursements to various vendors	75,523
• Unexplained difference	<u>70,009</u>
Understatement of disbursements	<u>\$ 159,582</u>

The \$294,475 understatement of the closing cash on hand was the result of the misstatements described above.

The Audit staff discussed the misstatements for 2005 and 2006 with TRP's representatives during the exit conference and presented them with copies of relevant workpapers. TRP representatives stated that amended reports would be filed.

2. Interim Audit Report and Audit Division Recommendation

The Interim Audit Report recommended TRP amend its reports to correct the misstatements for 2005 and 2006. The Interim Audit Report also recommended that TRP amend its most recently filed report to correct the cash on hand balance with an explanation that the change resulted from a prior period audit adjustment and that TRP reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may have affected the \$294,475 adjustment recommended by the Audit staff.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report, TRP amended its reports to materially correct the misstatements noted above. Its response did not provide any additional comments on the misstatements of its reports as originally filed. TRP also indicated that it will amend its most current report to correct the cash on hand balance.

Commission Conclusion

The Commission approved this finding.

Finding 2. Contributions from Unregistered Political Organizations

Summary

The Audit staff's review of contributions from unregistered political organizations suggested that TRP received \$114,395 in contributions that may not have been made with permissible funds. TRP refunded \$38,125 of these, but not in a timely manner. In response to the Interim Audit Report, TRP provided copies of the front and back of the negotiated contribution refund checks totaling \$71,845 and provided six check stubs for refunds, totaling \$4,325, issued but not yet negotiated. TRP did not address \$100 of these contributions. The Commission approved this finding.

Legal Standard

A. Party Committee Limits. A party committee may not receive more than a total of \$10,000 per year from any person except that a multicandidate political committee may not contribute more than \$5,000. 2 U.S.C. §441a(a)(1)(D) and 11 CFR §§110.1(a) and (c)(5), 110.2(d) and 110.9.

B. Handling Contributions That Appear Impermissible or Excessive. If a committee receives a contribution that appears to be impermissible or excessive, the committee must either:

1. Return the questionable check to the donor; or
2. Deposit the check into its federal account and:
 - Keep enough money in the account to cover all potential refunds;
 - Keep a written record explaining why the contribution may be illegal; Include this explanation on Schedule A if the contribution has to be itemized before its legality is established. 11 CFR §103.3(b)(3), (4) and (5).

1. Facts

The Audit staff's review of contributions suggested that 31 unregistered political organizations made 37 contributions totaling \$114,395 to TRP. Of this amount, \$38,125 was refunded but not in a timely manner. TRP did not have any records available to show that these contributions were made with permissible funds. For example, one of the unregistered political organizations (Republican Governors Association Federal PAC) contributed \$50,225 to TRP and therefore would have exceeded the \$10,000 contribution limit by \$40,225 if the contribution was determined to have been made with permissible funds. TRP did refund \$225 of this contribution, but not timely.

The Audit staff discussed this matter with TRP's representatives during the exit conference and presented them with copies of relevant workpapers. TRP representatives stated that they would review the schedules and take corrective action accordingly.

2. Interim Audit Report & Audit Division Recommendation

The Interim Audit Report recommended TRP provide evidence demonstrating that the contributions in question were made with permissible funds and that they were not excessive. Alternatively, the Interim Audit Report recommended that TRP refund the impermissible and/or excessive contributions and provide evidence of such refunds (copies of the front and back of the negotiated refund checks). If funds were not available to make the necessary refunds, TRP was to disclose the refunds due on Schedule D (Debts and Obligations) until funds became available.

3. Committee Response to the Interim Audit Report

In response to the Interim Audit Report, TRP provided copies of the front and back of negotiated contribution refund checks totaling \$71,845. In addition, it provided six check stubs for contribution refunds, totaling \$4,325, issued but not yet negotiated. TRP did not address \$100 of these contributions.

Commission Conclusion

The Commission approved this finding.

Finding 3. Disclosure of Expenditures for Salary and Wages

Summary

TRP did not maintain monthly logs, time sheets or affidavits for its employees. In response to the Interim Audit Report, TRP provided additional affidavits which stated that the employees did not spend more than 25% of their compensated time on federal election activities and amended its reports to reflect the remaining salary and payroll tax payments as wholly federal expenditures, which materially corrected the disclosure of the salaries. The Commission approved this finding.

Legal Standard

A. Accounts for Federal and Non-federal Activity. A party committee that finances political activity in connection with both federal and non-federal elections shall establish two accounts (federal and non-federal) and allocate shared expenses between the two accounts. Alternatively, the committee may conduct both federal and non-federal activity from one bank account, considered a federal account. 11 CFR §102.5(a)(1)(i).

B. Reporting Allocable Expenses. A state, district or local committee that allocates federal/non-federal expenses must report each disbursement it makes from its federal account (or separate allocation account) to pay for a shared federal/non-federal expense. Committees report these kinds of disbursements on Schedule H4 (Disbursements for Allocated Federal/NonFederal Activity). 11 CFR §104.17(b)(3).

C. Costs for salaries and wages paid by State party committees prior to January 19, 2006. State party committees may pay salaries and wages from funds that comply with State law for employees who spend 25% or less of their time in any given month on federal election activity. 11 CFR §106.7(c)(1).

D. Costs for salaries and wages paid by State party committees on or after January 19, 2006). State party committees must pay salaries, wages, and fringe benefits for employees who spend 25% or less of their time in a given month on Federal election activity or activity in connection with a Federal election with funds from their Federal account, or with a combination of funds from their federal and non-federal accounts. 11 CFR §106.7(c)(1), as amended January 19, 2006.

E. Allocation Ratios and Record-Keeping for Administrative Expenses. The percentages used for such allocations vary based on whether a Presidential and/or a Senate candidate appears, or does not appear, on the ballot in any even numbered year. For the period 2005-2006, an election cycle in which a Senate candidate, but no Presidential candidate, appeared on the ballot, a Committee must allocate at least 21% of administrative expenses to its Federal account. 11 CFR § 106.7(2)(iii). A Committee must keep a monthly log of the percentage of time each employee spends in connection with a Federal election. 11 CFR §106.7(d)(1).

1. Facts

During audit field work, the Audit staff's review of payroll records suggested that TRP did not maintain monthly logs, or time sheets for its employees. Therefore, based on the regulatory change effective January 19, 2006 (See page 1, Changes to the Law), the Audit staff applied the following to assess salary expenditures:

1. For salary and payroll tax payments made before January 19, 2006:
If there is a monthly log, time sheet or affidavit which states that:
 - the time spent on federal election activity or activity in connection with a Federal election is less than or equal to 25%, the payment can be made from the non-federal account; or
 - the time spent on federal election activity or activity in connection with a Federal election exceeds 25%, or for which there is no documentation indicating a lesser percentage, the federal committee must disclose these payments on Schedule B, Line 30b, as non-allocable Federal Election Activity (FEA).

2. For salary and payroll tax payments made on or after January 19, 2006:
If there is monthly log, time sheet or affidavit which states that:
 - the time spent on federal election activity or activity in connection with a Federal election each month is none, the payment may be made by the non-federal account; or
 - the time spent on federal election activity or activity in connection with a Federal election is greater than 0% but less than or equal to 25%; the payment must be made from the federal account and disclosed by the federal committee on Schedule H4 as an allocable federal/non-federal administrative expense for which reimbursement of the non-federal share may be sought; or
 - the time spent on federal election activity or activity in connection with a Federal election exceeds 25%, or there is no documentation indicating a lesser percentage, the federal committee must disclose these payments on Schedule B, Line 30b, as non-allocable FEA activity.

The results of the Audit staff's review of salary and payroll taxes, to include consideration of affidavits provided to date, are as follows:

1. Salary and payroll tax payments made from the non-federal account:
 - With respect to salary payments from this account totaling \$23,114, TRP provided affidavits which stated that four individuals spent less than or equal to 25% of their time per month on federal election activity or activity in connection with a Federal election during the period on or after January 19, 2006. In addition, there were payroll tax payments of \$6,096 related to these salary payments.
 - TRP failed to provide documentation detailing the time spent on federal election activity or election in connection with a Federal election for employees whose earnings totaled \$207,048 for the period before January 19, 2006 and \$37,792 for the period on or after January 19, 2006. In addition, there were payroll tax
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payments of \$53,198 and \$9,968 respectively, associated with these salary payments.

2. Salary and payroll tax payments made from the federal account:
 - TRP failed to provide supporting documentation detailing the time spent on federal election activity or election in connection with a Federal election for employees whose earnings totaled \$23,194 for the period before January 19, 2006 and \$665,209 for the period on or after January 19, 2006. In addition, there were payroll tax payments of \$2,314 and \$161,923, respectively, associated with these salary payments. TRP reported these salary and tax payments as allocable expenses on Schedule H4. Absent the supporting documentation, TRP should have disclosed these salary and tax payments on Schedule B, Line 30b for both periods.

The Audit staff examined reimbursements received from the non-federal account for its share of allocable activity and made necessary adjustments. This analysis showed there was no funding of federal activity by the non-federal accounts as a result of the activity discussed above.

The Audit staff discussed this matter with TRP's representatives during the exit conference, and presented them with copies of relevant workpapers. TRP representatives stated that they would review the schedules and amend TRP's reports accordingly.

2. Interim Audit Report & Audit Division Recommendation

The Interim Audit Report recommended TRP provide monthly logs or time sheets for each employee attesting to the time spent by the employee for the period employed by TRP, or affidavits from each employee which provide information similar to a monthly log of employee activities, and amend its disclosure reports accordingly. The Interim Audit Report further recommended that TRP amend its disclosure reports if no additional documentation was provided.

3. Committee Response to the Interim Audit Report

In response to the Interim Audit Report, TRP provided some additional affidavits which stated that the covered employees did not spend more than 25% of their compensated time on federal election activities and amended its reports as recommended for the remaining salaries and payroll taxes, which materially corrected the disclosure of the salaries.

Commission Conclusion

The Commission approved this finding.

Part V

Additional Issue

Expenditures Related to Bob Corker for Senate

Summary

TRP disclosed disbursements totaling \$721,093 as either federal election activity or federally funded operating disbursements in connection with numerous direct mail pieces in support of Bob Corker for Senate or in opposition to his opponent, Congressman Harold Ford, Jr. In response to the Interim Audit Report, TRP provided a description of the procedure used for handling a mail program by volunteers.

The Report of the Audit Division stated that TRP's procedure did not qualify for the volunteer materials exemption and therefore resulted in an excessive coordinated contribution to Bob Corker for Senate, but recommended no further corrective action.

In light of the lack of clarity regarding the amount of volunteer involvement needed to qualify for the volunteer materials exemption, the Commission did not approve the Audit staff's recommended finding by the required four votes. Pursuant to Commission Directive 70,⁶ this matter is discussed in this "Additional Issue" section.

Legal Standard

A. Limits on Contributions Made by State and Local Party Committees.

- State and local party committees must comply with the contribution limits below:
 - \$5,000 per election to a Federal campaign if the contributing committee has qualified as a multicandidate committee (see below).
 - \$2,100 per election to a Federal campaign if the contributing committee has not qualified as a multicandidate committee.
 - \$5,000 per year to a separate segregated fund (corporate or labor PAC) or a nonconnected committee.
 - Unlimited transfers to other party committees. 2 U.S.C. §441a(a).

B. 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 described above. 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.

⁶ Available at http://www.fec.gov/directives/directive_70.pdf.

- 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 described above.
- 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).

- C. Coordinated Communication.** A communication is coordinated with a candidate, an authorized committee, a political party committee, or an agent of any of the foregoing when the communication:
1. Is paid for by a person other than that candidate, authorized committee, political party committee, or agent of any of the foregoing.
 2. Satisfies at least one of the four content standards; and .
 3. Satisfies at least one of the conduct standards. 11 CFR §109.21(a)(1), (2) and (3), (c)(4), and (d)(4).
- D. Volunteer Activity.** The payment by a state committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution or disbursement, provided that the following conditions are met:
1. Such payment is not for the cost incurred in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication. The term direct mail means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.
 2. The portion of the payment allocable to federal candidates must be paid with federal funds.
 3. Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate for Federal office.
 4. Such materials are distributed by volunteers and not by commercial or for profit operations.
 5. If made by a political committee such payments shall be reported by the political committee as a disbursement.
 6. The exemption is not applicable to campaign materials purchased by the national party committees. 11 CFR §100.87 (a), (b), (c), (d), (e) and (g) and 11 CFR §100.147 (a), (b), (c), (d), (e) and (g).

1. Facts

TRP disclosed disbursements to Creative Direct, LLC for numerous direct mail pieces in support of Bob Corker for Senate or in opposition to his opponent, Congressman Harold Ford, Jr. TRP disclosed these disbursements either as federal election activity or federally funded operating disbursements. These disbursements totaled \$721,093 and were incurred during the period September through November of 2006. Both the Corker campaign and the NRSC used this same vendor for direct mail disbursements.

During audit field work, the Audit staff reviewed disbursements related to various forms of media to determine whether there was evidence of coordination with the candidate. For the coordinated expenditure standard to apply, two conditions must be met: content and conduct. In the view of the Audit staff, TRP appeared to have met the content standard and the conduct standard of the coordinated communications regulation. At the exit conference, the Audit staff discussed this matter with TRP's representatives, who stated they would review their records. Afterwards, the Audit staff provided a schedule of the \$721,093 possible coordinated expenditures for their review.⁷ In subsequent correspondence, TRP and Creative Direct, LLC indicated that they considered the direct mailings to be exempt volunteer activities.

2. Interim Audit Report & Audit Division Recommendation

The Interim Audit Report recommended TRP provide evidence of volunteer involvement or other evidence to support that no coordination existed between TRP and Bob Corker for Senate. The Interim Audit Report further recommended that TRP seek reimbursement from the candidate in the amount of \$716,093 if neither demonstration could be made.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report, TRP provided a description of the procedure used for handling the mail program during the fall of 2006. The response noted that volunteers at the Victory Field office were recruited by TN GOP Victory staff and organized to complete the following tasks:

- Volunteers unloaded the boxes of unstamped and unaddressed mail from wrapped pallets, taking them into the Victory office.
- Volunteers stacked the boxes inside the office.
- Volunteer Team Leader opened boxes and stacked the unmarked mail on a series of tables for volunteers to stamp.
- Volunteers sitting at the tables applied the Tennessee Republican Party indicia or stamp to each piece of mail with a hand operated ink stamp.
- Volunteers placed the mail pieces back into boxes after they had been hand stamped with the Tennessee Republican Party's indicia.
- Volunteers stacked the boxes of stamped mail near the door.
- Volunteers loaded the boxes back onto the truck for delivery to the mail house to address the mail pieces.

The response stated that during this process a volunteer physically touched each piece of mail to apply the hand operated ink stamp that was used to apply the non-profit indicia for postage used by the TRP.

⁷ The coordinated party expenditure limit for the state of Tennessee in the 2006 cycle for a Senate candidate was \$362,200. By a letter dated September 1, 2006, the Tennessee Republican Party assigned its limit to the National Republican Senatorial Committee (NRSC) giving the NRSC a limit of \$724,400. NRSC spent \$714,630 of the combined limit on behalf of Bob Corker for Senate. Thus, the Audit staff stated that if these disbursements were considered not to have met the volunteer exemption, and were found to have been coordinated, then TRP would have made an excessive contribution to Bob Corker for Senate in the amount of \$716,093 (because TRP did not contribute to Bob Corker for Senate the amount of the potential excessive contribution was \$716,093 (\$721,093-\$5,000)).

4. Draft Final Audit Report

The Draft Final Audit Report stated that the limited participation by volunteers as detailed by TRP did not appear to meet the requirement of the volunteer materials exemption, but recommended no further corrective action.

Commission Conclusion

In light of the lack of clarity regarding the amount of volunteer involvement needed to qualify for the volunteer materials exemption, the Commission did not approve the Audit staff's recommended finding by the required four votes. Pursuant to Commission Directive 70, the discussion of this matter was moved to the "Additional Issue" section of the audit report. TRP is not required to take further action with respect to these disbursements.