



FEDERAL ELECTION COMMISSION  
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June 19, 2013

## AGENDA ITEM

### MEMORANDUM

To: The Commission

For Meeting of 8-22-13

Through: Alec Palmer *for PCO*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Thomas E. Hintermister *[Signature]*  
Assistant Staff Director  
Audit Division

Alex Boniewicz *[Signature]*  
Audit Manager

Marty Favin *MLF*  
Audit Manager

By: Gary Hache *MLF for GH*  
Lead Auditor

Subject: Audit Division Recommendation Memorandum on the Arizona Republican Party (ARP) (A11-21)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presents its recommendations below and discusses the findings in the attached Draft Final Audit Report (DFAR). The Office of General Counsel (OGC) has reviewed this memorandum and concurs with the recommendations.

#### **Finding 1. Misstatement of Financial Activity**

In response to the Interim Audit Report (IAR), the ARP filed amendments that materially complied with the recommendation. The ARP accepted this finding in its response to the DFAR.

The Audit staff recommends that the Commission find that the ARP misstated their financial activity for calendar years 2009 and 2010.

**Finding 2. Reported Coordinated Party Expenditures**

For the audit period, the ARP reported coordinated expenditures for three House candidates that exceeded the 2010 coordinated party expenditure limit by a total of \$383,862. In response to the IAR, the ARP provided a written description and documentation to show that the expenditures were not actually coordinated but qualified for the volunteer materials exemption, and were not properly disclosed on its reports. Due to the lack of clarity regarding the level of volunteer involvement needed to qualify for the volunteer materials exemption, the DFAR did not attribute these expenditures to the ARP's coordinated limit. The ARP accepted this finding in its response to the DFAR.

The Audit staff recommends that the Commission find that the reported expenditures of \$383,862 should not be attributed to the ARP's coordinated expenditure limit.

**Finding 3. Reporting of Debts and Obligations**

In response to the IAR, the ARP filed amendments that materially complied with the recommendation. The ARP accepted this finding in its response to the DFAR.

The Audit staff recommends that the Commission find that the ARP failed to report debts and obligations totaling \$81,948.

The ARP did not request an audit hearing.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

In case of an objection, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Gary Hache or Marty Favin at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on the Arizona Republican Party

cc: Office of General Counsel



# Draft Final Audit Report of the Audit Division on the Arizona Republican Party

(January 1, 2009 - December 31, 2010)

## 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.<sup>1</sup> 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 Arizona Republican Party is a state party committee with headquarters in Phoenix, Arizona. For more information, see the chart on the Committee Organization, p. 2.

## Financial Activity (p. 3)

|   |                     |
|---|---------------------|
| • <b>Receipts</b>                               |                     |
| ○ Contributions from Individuals                | \$ 1,297,217        |
| ○ Political Committee Contributions             | 32,001              |
| ○ Transfers from Affiliates                     | 353,151             |
| ○ Transfers from Non-federal and Levin Accounts | 196,710             |
| ○ Offsets and Other Receipts                    | 19,581              |
| <b>Total Receipts</b>                           | <b>\$ 1,898,660</b> |
| • <b>Disbursements</b>                          |                     |
| ○ Operating Expenditures                        | \$ 1,028,844        |
| ○ Federal Election Activity                     | 299,340             |
| ○ Transfers to Non-federal Accounts             | 34,109              |
| ○ Coordinated Expenditures                      | 529,361             |
| ○ Other Expenditures                            | 12,500              |
| <b>Total Disbursements</b>                      | <b>\$ 1,904,154</b> |
| • <b>Levin Receipts</b>                         | <b>\$ 20,301</b>    |
| • <b>Levin Disbursements</b>                    | <b>\$ 28,329</b>    |

## Findings and Recommendations (p. 4)

- Misstatement of Financial Activity (Finding 1)
- Reported Coordinated Party Expenditures (Finding 2)
- Reporting of Debts and Obligations (Finding 3)

<sup>1</sup> 2 U.S.C. §438(b).

# **Draft Final Audit Report of the Audit Division on the Arizona Republican Party**

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(January 1, 2009 - December 31, 2010)



# Table of Contents

|  | <b>Page</b> |
|--|-------------|
| <b>Part I. Background</b>                          |             |
| Authority for Audit                                | 1           |
| Scope of Audit                                     | 1           |
| <b>Part II. Overview of Committee</b>              |             |
| Committee Organization                             | 2           |
| Overview of Financial Activity                     | 3           |
| <b>Part III. Summaries</b>                         |             |
| Findings and Recommendations                       | 4           |
| <b>Part IV. Findings and Recommendations</b>       |             |
| Finding 1. Misstatement of Financial Activity      | 5           |
| Finding 2. Reported Coordinated Party Expenditures | 8           |
| Finding 3. Reporting of Debts and Obligations      | 12          |

# **Part I**

## **Background**

### **Authority for Audit**

This report is based on an audit of the Arizona Republican Party (ARP), 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 whether 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**

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the disclosure of individual contributors' occupation and name of employer;
2. the disclosure of disbursements, debts and obligations;
3. the disclosure of expenses allocated between federal, non-federal, and Levin accounts;
4. the consistency between reported figures and bank records;
5. the completeness of records; and
6. other committee operations necessary to the review.

## Part II

### Overview of Committee

#### Committee Organization

|  |  |
|--|--|
| <b>Important Dates</b>                           |  |
| • Date of Registration                           | October 6, 1975 <sup>2</sup>   |
| • Audit Coverage                                 | January 1, 2009 – December 31, 2010  |
| <b>Headquarters</b>                              |  |
|  | Phoenix, Arizona   |
| <b>Bank Information</b>                          |  |
| • Bank Depositories                              | One  |
| • Bank Accounts                                  | Four Federal, One Levin and Four Non-federal Accounts  |
| <b>Treasurer</b>                                 |  |
| • Treasurer When Audit Was Conducted             | Timothy Lee [through April 25, 2012]<br>Andrew A. Stevens [through February 11, 2013]<br>Timothy Lee [as of February 12, 2013] |
| • Treasurer During Period Covered by Audit       | Timothy Lee  |
| <b>Management Information</b>                    |  |
| • Attended a Commission Campaign Finance Seminar | Yes  |
| • Who Handled Accounting and Recordkeeping Tasks | Paid Staff   |

<sup>2</sup> The ARP registered with the Secretary of the Senate as the Republican State Committee of Arizona. In 1985, the ARP filed an amended Statement of Organization, changing its name to the Arizona Republican Party.

## Overview of Financial Activity (Audited Amounts)

|   |                               |
|---|-------------------------------|
| <b>Cash-on-hand @ January 1, 2009</b>           | <b>\$ 4,399</b>               |
| <b>Receipts</b>                                 |                               |
| ○ Contributions from Individuals                | \$ 1,297,217                  |
| ○ Political Committee Contributions             | 32,001                        |
| ○ Transfers from Affiliates                     | 353,151                       |
| ○ Transfers from Non-federal and Levin Accounts | 196,710                       |
| ○ Offsets and Other Receipts                    | 19,581                        |
| <b>Total Receipts</b>                           | <b>\$ 1,898,660</b>           |
| <b>Disbursements</b>                            |                               |
| ○ Operating Expenditures                        | \$ 1,028,844                  |
| ○ Federal Election Activity                     | 299,340                       |
| ○ Transfers to Non-federal Accounts             | 34,109                        |
| ○ Coordinated Expenditures                      | 529,361                       |
| ○ Other Expenditures                            | 12,500                        |
| <b>Total Disbursements</b>                      | <b>\$ 1,904,154</b>           |
| <b>Cash-on-hand @ December 31, 2010</b>         | <b>(\$ 1,095)<sup>3</sup></b> |
| <br>  |                               |
| <b>Levin Cash-on-hand @ January 1, 2009</b>     | <b>\$ 8,535</b>               |
| <b>Total Levin Receipts</b>                     | <b>\$ 20,301</b>              |
| <b>Total Levin Disbursements</b>                | <b>\$ 28,329</b>              |
| <b>Levin Cash-on-hand @ December 31, 2010</b>   | <b>\$ 507</b>                 |

<sup>3</sup> Overdraft was cleared on January 6, 2011.

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Misstatement of Financial Activity**

During audit fieldwork, a comparison of the ARP's reported financial activity with its bank records revealed a misstatement of the beginning and ending cash balances, receipts and disbursements in calendar years 2009 and 2010. The misstatements were due mainly to unreported transfers from the non-federal accounts, unreported receipts and operating expenditures, and unreported non-federal payroll paid from a federal account. For 2009, the ARP overstated the beginning cash balance by \$25,971, understated receipts by \$56,959 and disbursements by \$92,890, and overstated the ending cash balance by \$61,902. For 2010, the ARP understated receipts by \$99,511 and disbursements by \$55,892 and overstated the ending cash balance by \$18,283. In response to the Interim Audit Report recommendation, the ARP amended its reports to materially correct the misstatements noted above.

(For more detail, see p. 5.)

##### **Finding 2. Reported Coordinated Party Expenditures**

For the audit period, the ARP reported coordinated expenditures for three House candidates that exceeded the 2010 coordinated party expenditure limit by a total of \$383,862. In response to the Interim Audit Report recommendation, the ARP provided a written description and documentation to show that the expenditures were not actually coordinated but qualified for the volunteer materials exemption and were not properly disclosed on its reports. Given the uncertainty regarding the level of volunteer involvement needed to qualify State or local party committee expenditures for the volunteer materials exemption, as well as the amount of documentation required to support such an exemption, the expenditures are no longer being attributed to ARP's coordinated expenditure limit. (For more detail, see p. 8.)

##### **Finding 3. Reporting of Debts and Obligations**

Audit fieldwork indicated that the ARP failed to report debts and obligations for seven vendors totaling \$81,948 on Schedule D (Debts and Obligations). In response to the Interim Audit Report recommendation, the ARP amended its reports to include these debts and obligations.

(For more detail, see p. 12.)

## Part IV

# Findings and Recommendations

### Finding 1. Misstatement of Financial Activity

#### Summary

During audit fieldwork, a comparison of the ARP's reported financial activity with its bank records revealed a misstatement of the beginning and ending cash balances, receipts and disbursements in calendar years 2009 and 2010. The misstatements were due mainly to unreported transfers from the non-federal accounts, unreported receipts and operating expenditures, and unreported non-federal payroll paid from a federal account. For 2009, the ARP overstated the beginning cash balance by \$25,971, understated receipts by \$56,959 and disbursements by \$92,890, and overstated the ending cash balance by \$61,902. For 2010, the ARP understated receipts by \$99,511 and disbursements by \$55,892 and overstated the ending cash balance by \$18,283. In response to the Interim Audit Report recommendation, the ARP amended its reports to materially correct the misstatements noted above.

#### Legal Standard

**A. 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).

**B. Transfers.** Generally, a political committee may not transfer funds to its federal account from any other account or accounts maintained for the purpose of financing activity in connection with non-federal elections, except when the committee follows specific rules for paying for shared federal/non-federal election activity. 11 CFR §§102.5(a)(1)(i) and 106.7(f).

#### Facts and Analysis

##### A. Facts

During audit fieldwork, the Audit staff reconciled the ARP's reported financial activity with its bank records and identified a misstatement of the beginning and ending cash balances, receipts and disbursements for calendar years 2009 and 2010. The following charts detail the discrepancies between the totals on the ARP's disclosure reports and bank records. Succeeding paragraphs explain why the discrepancies occurred.

| <b>2009 Activity</b>                        |                 |                     |                         |
|---|-----------------|---------------------|-------------------------|
|   | <b>Reported</b> | <b>Bank Records</b> | <b>Discrepancy</b>      |
| Beginning Cash Balance<br>@ January 1, 2009 | \$30,370        | \$4,399             | \$25,971<br>Overstated  |
| Receipts                                    | \$483,816       | \$540,775           | \$56,959<br>Understated |
| Disbursements                               | \$449,381       | \$542,271           | \$92,890<br>Understated |
| Ending Cash Balance @<br>December 31, 2009  | \$64,805        | \$2,903             | \$61,902<br>Overstated  |

The \$25,971 overstatement of the beginning cash balance was likely due to prior-period reporting discrepancies.

The understatement of receipts was the result of the following.

|  |                         |
|--|-------------------------|
| • Transfers from the non-federal accounts not reported               | \$ 51,042               |
| • Contributions not reported   | 13,115                  |
| • Reported receipts not supported by deposit documentation or credit | (7,158)                 |
| • Unexplained difference   | <u>(40)</u>             |
| <b>Net Understatement of Receipts</b>                                | <b><u>\$ 56,959</u></b> |

The understatement of disbursements was the result of the following.

|  |                         |
|--|-------------------------|
| • Non-federal payroll paid from federal account not reported         | \$ 78,686               |
| • Transfers to the non-federal account not reported                  | 10,300                  |
| • Operating expenditures not reported                                | 6,390                   |
| • Reported disbursements not supported by a cancelled check or debit | (2,489)                 |
| • Unexplained difference   | <u>3</u>                |
| <b>Net Understatement of Disbursements</b>                           | <b><u>\$ 92,890</u></b> |

The \$61,902 overstatement of the ending cash balance resulted from the reporting discrepancies noted above.

| <b>2010 Activity</b>                        |                 |                        |                         |
|---|-----------------|------------------------|-------------------------|
|   | <b>Reported</b> | <b>Bank Records</b>    | <b>Discrepancy</b>      |
| Beginning Cash Balance<br>@ January 1, 2010 | \$64,805        | \$2,903                | \$61,902<br>Overstated  |
| Receipts                                    | \$1,258,374     | \$1,357,885            | \$99,511<br>Understated |
| Disbursements                               | \$1,305,991     | \$1,361,883            | \$55,892<br>Understated |
| Ending Cash Balance @<br>December 31, 2010  | \$17,188        | (\$1,095) <sup>†</sup> | \$18,283<br>Overstated  |

<sup>†</sup> Overdraft was cleared on January 6, 2011.

The understatement of receipts was the result of the following.

|  |                         |
|--|-------------------------|
| • Transfers from the non-federal accounts not reported               | \$ 55,272               |
| • Contributions not reported   | 45,006                  |
| • In-kind contributions not reported                                 | 11,151                  |
| • Reported receipts not supported by deposit documentation or credit | (11,697)                |
| • Unexplained difference   | <u>(221)</u>            |
| <b>Net Understatement of Receipts</b>                                | <b><u>\$ 99,511</u></b> |

The understatement of disbursements was the result of the following.

|  |                         |
|--|-------------------------|
| • Non-federal payroll paid from the federal account not reported     | \$ 14,202               |
| • Operating expenditures not reported                                | 29,497                  |
| • Transfers to non-federal accounts not reported                     | 16,366                  |
| • In-kind contributions not reported                                 | 11,151                  |
| • Reported disbursements not supported by a cancelled check or debit | (11,788)                |
| • Disbursements paid from non-federal accounts reported in error     | (3,751)                 |
| • Unexplained difference   | <u>215</u>              |
| <b>Net Understatement of Disbursements</b>                           | <b><u>\$ 55,892</u></b> |

The \$18,283 overstatement of the ending cash balance resulted from the reporting discrepancies noted above.

The ARP contracted with Paychex, a third-party vendor, to process employee salaries, taxes and health benefits.<sup>5</sup> Paychex withdrew funds from the ARP's federal administrative account to pay federal payroll, allocated payroll, non-federal payroll and related benefits. The non-federal account reimbursed the federal account for the non-federal payroll and benefits.<sup>6</sup> The ARP initially reported only the federal payroll, allocated payroll and related benefits. The ARP did not initially report non-federal payroll and benefits and the reimbursement from the non-federal account. Since the ARP paid the non-federal payroll, taxes and benefits from the federal administrative account, these expenditures should have been reported on Schedule B – Other Disbursements and the reimbursement from the non-federal account on Schedule A – Other Receipts.

### **B. Interim Audit Report & Audit Division Recommendation**

At the exit conference, Audit staff provided the ARP representatives with workpapers detailing the misstatements of financial activity and discussed the reporting requirements for financial activity passing through the federal bank accounts. An ARP representative asked whether the requirement also applied to credit card contributions intended for the non-federal account. The Audit staff stated that because all credit card contributions are processed through the federal account, contributions intended for the non-federal account needed to be reported first on Schedule A – Other Receipts, and the transfer of the funds to the non-federal account reported on Schedule B – Other Disbursements.

<sup>5</sup> Paychex began providing payroll services on October 1, 2009; prior to that date, payroll services were provided by Business Management Solutions LLC.

<sup>6</sup> A review of payroll expenditures showed that the non-federal account did not fund any of the federal payroll.

The Interim Audit Report recommended that the ARP:

- amend its reports to correct the misstatements for 2009 and 2010 as noted above;
- amend its most recent report to correct the cash-on-hand balance with an explanation that the change resulted from a prior-period audit adjustment; and
- reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may affect the \$18,283 adjustment recommended by the Audit staff.

### C. Committee Response to Interim Audit Report

In response to the Interim Audit Report, the ARP filed amended reports that materially corrected the misstatements.

## **Finding 2. Reported Coordinated Party Expenditures**

### **Summary**

For the audit period, the ARP reported coordinated expenditures for three House candidates that exceeded the 2010 coordinated party expenditure limit by a total of \$383,862. In response to the Interim Audit Report recommendation, the ARP provided a written description and documentation to show that the expenditures were not actually coordinated but qualified for the volunteer materials exemption and were not properly disclosed on its reports. Given the uncertainty regarding the level of volunteer involvement needed to qualify State or local party committee expenditures for the volunteer materials exemption, as well as the amount of documentation required to support such an exemption, the expenditures are no longer being attributed to ARP's coordinated expenditure limit.

### **Legal Standard**

**A. 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 termed "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. 2 U.S.C. §441a(d) and 11 CFR §§109.30 and 109.32.

**B. Assignment of Coordinated Party Expenditure Limit.** A political party may assign its authority to make coordinated party expenditures to another political party committee. Such an assignment must be made in writing, state the amount of the authority assigned, and be received by the assignee before any coordinated party expenditure is made pursuant to the assignment. The political party committee that is assigned authority to make coordinated party expenditures must maintain the written assignment for at least three years. 11 CFR §109.33(a) and (c).

### **C. 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;
- \$2,400 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 political action committee) or a nonconnected committee; and
- unlimited transfers to other party committees. 2 U.S.C. §441a(a).

**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, provided that the conditions below are met.

1. Such payment is not for cost incurred in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication or political advertising. 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 cost of such materials allocable to federal candidates must be paid from contributions subject to the limitations and prohibitions of the Act.
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 in accordance with 11 CFR §104.3 but need not be allocated to specific candidates in committee reports.
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).

## **Facts and Analysis**

### **A. Facts**

The coordinated expenditure limit for the 2010 election cycle for a House candidate in the state of Arizona was \$43,500 each for the state and national party committees. The ARP reported receiving authorization from the Republican National Committee (RNC) and the National Republican Congressional Committee (NRCC) to make coordinated expenditures on behalf of House candidates Paul Gosar (Arizona District 1), David Schweikert (Arizona District 5) and Jesse Kelly (Arizona District 8). During audit fieldwork, the Audit staff requested, but did not receive, documentation as required by 11 CFR §109.33(a) from the ARP demonstrating the parties' authorization. A review of the NRCC's disclosure reports indicated that the NRCC made coordinated expenditures of \$85,000 on behalf of Paul Gosar for Congress and \$85,000 for Kelly for Congress. Also, the NRCC reported receiving authorization from the RNC and the

ARP to make these expenditures. Therefore, without documentation to support an increased coordinated spending limit, the ARP's coordinated spending limit for each congressional candidate was \$43,500.<sup>7</sup>

The ARP reported making coordinated expenditures for direct mail pieces totaling \$57,373 on behalf of Paul Gosar for Congress, \$209,032 for David Schweikert for Congress and \$262,957 for Kelly for Congress. These expenditures were in excess of the authorized coordinated spending limit for each candidate and resulted in an apparent excessive in-kind contribution to each candidate.

The following chart details the total amount of coordinated expenditures reported by the ARP and the resulting apparent excessive in-kind contributions.

| <b>ARP Coordinated Expenditures</b>                        | <b>Paul Gosar for Congress</b> | <b>David Schweikert for Congress</b> | <b>Kelly for Congress</b> | <b>Total</b>     |
|--|--------------------------------|--------------------------------------|---------------------------|------------------|
| Reported Expenditures                                      | \$57,373                       | \$209,032                            | \$262,957                 |                  |
| Less: Spending Limit                                       | (\$43,500)                     | (\$43,500)                           | (\$43,500)                |                  |
| Over Limit (In-kind Contribution)                          | \$13,873                       | \$165,532                            | \$219,457                 |                  |
| Less: Allowable Contribution <sup>8</sup>                  | (\$5,000)                      | (\$5,000)                            | (\$5,000)                 |                  |
| <b>Apparent Excessive In-kind Contributions</b>            | <b>\$8,873</b>                 | <b>\$160,532</b>                     | <b>\$214,457</b>          | <b>\$383,862</b> |
|  |                                |                                      |                           |                  |
| Coordinated Expenditures reported by the NRCC <sup>9</sup> | \$85,000                       | \$0                                  | \$85,000                  |                  |

### **B. Interim Audit Report & Audit Division Recommendation**

At the exit conference, the Audit staff provided the ARP representatives with a schedule of the apparent excessive in-kind contributions. The ARP representatives stated that they had not received a response from the RNC or NRCC about authorization of the coordinated expenditure limit and asked what this finding would mean for the ARP. The Audit staff stated that if the ARP cannot provide documentation to refute coordination, the Commission could find that the ARP made an excessive in-kind contribution to the candidates and ask the ARP to request a refund from the candidates.

The Interim Audit Report recommended that the ARP demonstrate that it did not exceed its coordinated spending limit on behalf of Paul Gosar for Congress, David Schweikert for Congress and Kelly for Congress. Absent evidence of the above, the Interim Audit Report recommended that the ARP seek reimbursement from Paul Gosar for Congress in the amount of \$8,873, David Schweikert for Congress in the amount of \$160,532 and Kelly for Congress in the amount of \$214,457.

<sup>7</sup> The ARP did not provide any documentation to demonstrate that it had transferred its authority to the NRCC to make coordinated expenditures on behalf of the candidates.

<sup>8</sup> The ARP did not report any contributions to federal candidates during the 2010 election cycle.

<sup>9</sup> Reported expenditures by the NRCC were made prior to the expenditures reported by the ARP.

### C. Committee Response to Interim Audit Report

In response to the Interim Audit Report, the ARP stated that the expenditures in question were not coordinated but, in fact, were “non-allocable contributions” and met the statutory and regulatory definition of “volunteer exempt activity” as provided at 2 U.S.C. §§431(8)(B)(ix) and 431(9)(B)(viii). The ARP stated that all of the mailings were distributed using lists of addressees owned and maintained by the ARP and had a significant volunteer component. For each of the expenditures in question, the ARP supplied a commercial printer with a graphical design for the mail piece and an address list drawn from the ARP’s own comprehensive list of registered Arizona Republicans. The vendor prepared the pieces, including the printing of the ARP’s bulk rate mail permit number and addressee information. The vendor’s equipment sorted the mail pieces according to the postal zip code and party volunteers were responsible for binding the mail pieces by grouping, placing them into U. S. Postal Service (USPS) bags or trays in accordance with USPS regulations and delivering the sorted mail to the USPS facility.<sup>10</sup>

The Audit staff inquired as to why the ARP reported these expenditures on Schedule F (Itemized Coordinated Party Expenditures) instead of Schedule B, Line 30b (Federal Election Activity). The ARP responded that during the time period covered by the audit the ARP contracted with a regional accounting firm that promoted itself as qualified to facilitate timely and accurate reporting to the Commission. The ARP provided this vendor with regular financial reports to be used in the preparation of the disclosure reports. It subsequently became apparent that the accounting firm was experiencing significant internal challenges in its compliance practice.<sup>11</sup> The ARP relied on this vendor to file accurate reports in a timely manner. A new compliance vendor has been engaged and the ARP believes that this new service provider is technically competent.

The Commission has addressed the applicability of the volunteer materials exemptions in the Final Audit Reports of the Democratic Executive Committee of Florida (DECF) and the Tennessee Republican Party (TRP). In these reports, the Commission recognized a lack of clarity exists regarding the application of the volunteer materials exemption. In recognizing the lack of clarity, the Commission has attempted to formulate a consensus policy regarding what constitutes substantial volunteer involvement for the purpose of applying the exemption.<sup>12</sup>

In view of the uncertainty regarding the amount of volunteer involvement needed to qualify for the volunteer materials exemption, as well as the amount of documentation required to support such an exemption, the expenditures for which the ARP claims as qualifying as volunteer exempt activity are no longer being attributed to ARP’s coordinated expenditure limit.

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<sup>10</sup> The ARP provided photographs of the volunteers performing these duties for the expenditures in support of Congressman Schweikert. Documentation to support the expenditures in support of the Gosar 2010 and Kelly 2010 campaigns was not available because, during a change in party leadership and staffing in January 2011, the records of the previous campaign activities were inadvertently discarded. The ARP contacted the candidate committees and requested they provide any additional information they may have in their possession to further support the volunteer involvement. The committees have provided none to date. The ARP acknowledged this recordkeeping deficiency and continues to seek affidavits from the individuals responsible for the volunteer activities during the 2010 campaign.

<sup>11</sup> The ARP was notified by the vendor in the first quarter of 2012 that the individual responsible for reporting compliance to the Commission was no longer with the firm and had not been for some time.

<sup>12</sup> Proposed Interim Enforcement Policy, Agenda document No. 10-16, Drafts A through D.

### **Finding 3. Reporting of Debts and Obligations**

#### **Summary**

Audit fieldwork indicated that the ARP failed to report debts and obligations for seven vendors totaling \$81,948 on Schedule D (Debts and Obligations). In response to the Interim Audit Report recommendation, the ARP amended its reports to include these debts and obligations.

#### **Legal Standard**

**A. Continuous Reporting Required.** A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished.

2 U.S.C. §434(b)(8) and 11 CFR §§104.3(d) and 104.11(a).

**B. Separate Schedules.** A political committee must file separate schedules for debts owed by the committee and debts owed to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).

**C. Itemizing Debts and Obligations.**

- A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it on the next regularly scheduled report.
- A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

#### **Facts and Analysis**

##### **A. Facts**

During audit fieldwork, the Audit staff reviewed the ARP's disbursement records and disclosure reports for proper reporting of debts and obligations for 12 selected vendors. The review identified debts totaling \$188,956 owed to seven vendors that the ARP reported properly on Schedule D. However, the ARP did not report, as required, additional debts totaling \$81,948 that it owed to these seven vendors.<sup>13</sup> For the remaining five vendors, there were no debts that required reporting.

##### **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed the reporting of debts and obligations with the ARP's representatives at the exit conference and provided workpapers detailing the unreported debts. The ARP representatives had no comment.

The Interim Audit Report recommended that the ARP amend its reports to disclose these debts and obligations on Schedule D.

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<sup>13</sup> This is the sum of the total unreported debt for each of the seven vendors during the period covered by the audit (debts only counted when incurred).

**C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, the ARP amended its reports to include these debts and obligations. The ARP noted in its response that the unreported debts identified in the audit were disputed debts but acknowledged that Commission regulations require that all debt must be reported regardless of whether a payment dispute exists or not.