



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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August 1, 2013

AGENDA ITEM

MEMORANDUM

For Meeting of 8-22-13

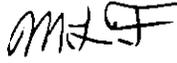
To: The Commission

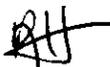
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By: Randy Harris 
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Subject: Audit Division Recommendation Memorandum on the Mississippi
Democratic Party PAC (MDP) (A11-10)

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, MDP filed amendments that materially complied with the recommendation. MDP had no additional comments in its response to the DFAR.

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

Finding 2. Disclosure of Disbursements

In response to the Interim Audit Report, MDP filed amendments that materially complied with the recommendation. MDP had no additional comments in its response to the DFAR.

The Audit staff recommends that the Commission find that MDP omitted disclosure information related to disbursements totaling \$361,109.

Finding 3. Disclosure of Occupation/Name of Employer

In response to the Interim Audit Report, MDP filed amendments that materially complied with the recommendation. MDP had no additional comments in its response to the DFAR.

The Audit staff recommends that the Commission find that MDP failed to disclose occupation/name of employer for contributions from individuals totaling \$17,426 and did not demonstrate “best efforts” to obtain, maintain, and submit disclosure information with respect to these contributions.

Finding 4. Recordkeeping for Employees

For the period covered by the audit, MDP did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to MDP employees totaling \$138,741, for whom MDP was required to maintain monthly payroll logs. In response to the Interim Audit Report recommendation, MDP implemented a plan to track employees’ time spent on federal election activities. MDP had no additional comments in its response to the DFAR.

The Audit staff recommends that the Commission find that MDP failed to maintain logs to document the time employees spent on federal election activity totaling \$138,741.

MDP 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 Randy Harris or Marty Favin at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on the Mississippi Democratic Party PAC

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the Mississippi Democratic Party PAC

(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.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 Mississippi Democratic Party PAC is a state party committee headquartered in Jackson, Mississippi. For more information, see the chart on the committee organization, p. 2.

Financial Activity (p. 2)

• Receipts	
• Contributions from Individuals	\$ 153,038
• Contributions from Other Political Committees	30,550
• Transfers from Affiliated/Other Party Committees	568,534
• Transfers from Non-federal Account	88,144
• Other Receipts	951
Total Receipts	\$ 841,217
• Disbursements	
• Operating Disbursements	\$ 437,223
• Other Disbursements	389,693
Total Disbursements	\$ 826,916

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Disclosure of Disbursements (Finding 2)
- Disclosure of Occupation/Name of Employer (Finding 3)
- Recordkeeping for Employees (Finding 4)

¹ 2 U.S.C. §438(b).

Draft Final Report of the Audit Division on the Mississippi Democratic Party PAC

(January 1, 2009 - December 31, 2010)



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Part I

Background

Authority for Audit

This report is based on an audit of the Mississippi Democratic Party PAC (MDP), 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 receipt of contributions from prohibited sources;
2. the disclosure of individual contributors' occupation and name of employer;
3. the consistency between reported figures and bank records;
4. the disclosure of disbursements, debts, and obligations;
5. the completeness of records; and
6. other committee operations necessary to the review.

Commission Guidance

Request for Early Commission Consideration of a Legal Question

Pursuant to the "Policy Statement Establishing a Program for Requesting Consideration of Legal Questions by the Commission," MDP requested early consideration of a legal question raised during the audit. MDP questioned whether the monthly time logs required under 11 CFR §106.7(d)(1) applied to employees paid with 100 percent federal funds (See Finding 4.)

The Commission concluded, by a vote of 5-1, that 11 CFR §106.7(d)(1) does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, however, the Commission decided it will not pursue recordkeeping violations for the failure to keep time logs or to provide affidavits to account for employee salaries paid with 100 percent federal funds and reported as such. The Audit staff informed MDP Counsel of the Commission's decision on MDP's request. This audit report does not include any finding or recommendation with respect to MDP's employees paid with 100 percent federal funds and reported as such.

Part II Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	February 8, 1982
• Audit Coverage	January 1, 2009 - December 31, 2010
Headquarters	
Jackson, Mississippi	
Bank Information	
• Bank Depositories	One
• Bank Accounts	Six federal and one non-federal
Treasurer	
• Treasurer When Audit Was Conducted	Melton Harris
• Treasurer During Period Covered by Audit	Audrey Seale
Management Information	
• Attended the Commission Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2009	\$ (10,177)²
Receipts	
○ Contributions from Individuals	153,038
○ Contributions from Other Political Committees	30,550
○ Transfers from Affiliated/Other Party Committees	568,534
○ Transfers from Non-federal Account	88,144
○ Other Receipts	951
Total Receipts	\$ 841,217
Disbursements	
○ Operating Disbursements	437,223
○ Other Disbursements	389,693
Total Disbursements	\$ 826,916
Cash-on-hand @ December 31, 2010	\$ 4,124

² MDP's bank statement did not show a negative cash-on-hand balance at January 1, 2009, due to an outstanding check that had not cleared its federal bank account.

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of MDP's reported financial activity with its bank records revealed a misstatement of receipts and disbursements in calendar year 2009. In response to the Interim Audit Report recommendation, MDP filed amended reports that materially corrected the misstatements.

In addition, MDP filed original reports for 2010 that were materially understated. Specifically, MDP's original reports understated receipts by \$221,646 in 2010. MDP did amend its reports prior to the notification of this audit to correct the misstated receipts activity for 2010. In response to the Interim Audit Report recommendation, MDP noted that it has made improvements to its reporting and accounting system to ensure more accurate reporting. (For more detail, see p. 4.)

Finding 2. Disclosure of Disbursements

The Audit staff reviewed disbursements itemized on the disclosure reports and identified disbursements totaling \$361,109 with missing payee addresses. In response to the Interim Audit Report recommendation, MDP materially corrected its reports by filing amended reports to disclose the missing payee information. (For more detail, see p. 6.)

Finding 3. Disclosure of Occupation/Name of Employer

A review of all contributions from individuals requiring itemization indicated that 73 contributions totaling \$17,426 lacked disclosure of occupation and/or name of employer. Furthermore, "best efforts" to obtain, maintain and submit information had not been sufficiently documented for these contributions.

In response to the Interim Audit Report recommendation, MDP amended its reports to materially correct the disclosure of the missing occupation and/or name of employer information. MDP also described the best efforts procedures that have been developed and implemented since the audit. (For more detail, see p. 7.)

Finding 4. Recordkeeping for Employees

During audit fieldwork, the Audit staff determined that MDP did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to MDP employees totaling \$138,741, for whom MDP was required to maintain monthly payroll logs. In response to the Interim Audit Report recommendation, MDP implemented a plan to track employees' time spent on federal election activities. (For more detail, see p. 9.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of MDP's reported financial activity with its bank records revealed a misstatement of receipts and disbursements for calendar year 2009. In response to the Interim Audit Report recommendation, MDP filed amended reports that materially corrected the misstatements.

In addition, MDP filed original reports for 2010 that were materially understated. Specifically, MDP's original reports understated receipts by \$221,646 in 2010. MDP did amend its reports prior to the notification of this audit to correct the misstated receipts activity for 2010. In response to the Interim Audit Report recommendation, MDP noted that it has made improvements to its reporting and accounting system to ensure more accurate reporting.

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. Misstatement of Financial Activity - 2009

1. Facts

The Audit staff reconciled MDP's reported activity with its bank records and identified a misstatement of receipts and disbursements for calendar year 2009.

The following chart details the discrepancies and succeeding paragraphs explain the reasons for the misstatements.

The beginning cash balance, as of January 1, 2009, was overstated by \$34,750 because of prior-period discrepancies.

2009 Activity			
	Reported³	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2009	\$24,573	(\$10,177)	\$34,750 Overstated
Receipts	\$202,756	\$210,042	\$7,286 Understated
Disbursements	\$174,855	\$199,388	\$24,533 Understated
Ending Cash Balance @ December 31, 2009	\$46,366	\$477	\$45,889 Overstated

The understatement of receipts was the result of the following:

• Receipts not reported	\$ 8,607
• Transfer from the non-federal account not reported	6,803
• Transfer from the non-federal account reported twice	(6,747)
• Over-reported receipts	(1,080)
• Unexplained difference	<u>(297)</u>
Net Understatement of Receipts	<u>\$ 7,286</u>

The understatement of disbursements was the result of the following:

• Disbursements not reported	\$ 25,780
• Disbursements reported but not supported by check or debit	(1,135)
• Unexplained difference	<u>(112)</u>
Net Understatement of Disbursements	<u>\$ 24,533</u>

The \$45,889 overstatement of the ending cash balance was the result of the reporting discrepancies noted above.

2. Interim Audit Report & Audit Division Recommendation

The misstatement of financial activity was discussed at the exit conference and the Audit staff provided relevant schedules detailing the transactions. An MDP representative acknowledged the discrepancies in the reports and indicated that corrective amendments would be filed.

The Audit staff recommended that MDP:

- amend its reports to correct the misstatements for 2009; and
- 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

³ This column does not total because MDP amended Ending Cash Balance on its 2008 Year-end Report but did not carry forward this adjustment on subsequent reports.

and reconcile the cash balance on its most recent report to identify any subsequent discrepancies that may impact the \$45,889 adjustment recommended by the Audit staff.

3. Committee Response to Interim Audit Report

In its response, MDP noted that it amended the 2009 reports and made corresponding amendments to subsequent reports. The Audit staff notes that as a result of these amendments, MDP materially corrected the misstatements.

B. Misstatement of Financial Activity – Increased Activity

1. Facts

The Audit staff compared the original reports filed with the bank records and discovered a \$228,932 understatement of receipts from January 1, 2009 through December 31, 2010. This amount represents the difference between receipts as originally reported and the amount of receipts per the bank records. This figure also includes the \$7,286 understatement of receipts from 2009 in Section A (Misstatement of Financial Activity – 2009) noted above. The increase in activity in 2010 was largely due to MDP not reporting transfers from the national party committee on its original reports totaling \$198,597.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatements for 2009 and 2010 with MDP representatives during the exit conference. The Audit staff recommended that MDP submit any additional information or written comments it considered relevant to the matter.

3. Committee Response to Interim Audit Report

In its response, MDP noted that the increased disclosed activities relate to minor bookkeeping errors that occurred during the 2009 calendar year and that it has made improvements to its reporting and accounting system to ensure more accurate reporting now and in the future.

Finding 2. Disclosure of Disbursements

Summary

The Audit staff reviewed disbursements itemized on the disclosure reports and identified disbursements totaling \$361,109 with missing payee addresses. In response to the Interim Audit Report recommendation, MDP materially corrected its reports by filing amended reports to disclose the missing payee information.

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; and
- name and address of the payee and purpose. 11 CFR §104.3(b)(3).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed all disbursements and identified 172 itemized transactions, totaling \$361,109 that did not include the payees' addresses. This accounted for 54 percent of the total dollar value of itemized disbursements. The majority of these omitted addresses were for disbursements made in 2010.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with MDP representatives at the exit conference and subsequently provided them with a schedule of disbursements with missing payee addresses. At the exit conference, MDP representatives agreed to file amended reports to disclose the missing addresses. The Audit staff recommended that MDP amend its reports to disclose these omissions.

C. Committee Response to Interim Audit Report

In its response, MDP noted that it has amended the reports to provide the missing payee information. The Audit staff notes that as a result of these amendments, MDP materially corrected its disclosure of payee information.

Finding 3. Disclosure of Occupation/Name of Employer

Summary

A review of all contributions from individuals requiring itemization indicated that 73 contributions totaling \$17,426 lacked disclosure of occupation and/or name of employer. Furthermore, "best efforts" to obtain, maintain and submit information had not been sufficiently documented for these contributions.

In response to the Interim Audit Report recommendation, MDP amended its reports to materially correct the disclosure of the missing occupation and/or name of employer information. MDP also described the best efforts procedures that have been developed and implemented since the audit.

Legal Standard

A. Itemization required for contributions from Individuals. A political committee other than an authorized committee must itemize any contribution from an individual if it exceeds \$200 per calendar year, either by itself or when combined with other contributions from the same contributions. 2 U.S.C §434(b)(3)(a).

B. Required Information for Contributions from Individuals. For each itemized contribution from an individual, the committee must provide the following information:

- the contributor's full name and address (including zip code);
- the contributors occupation and the name of his or her employer;
- the date of receipt (the date the committee received the contribution);

- the amount of the contribution; and
- the calendar year-to-date total of all contributions from the same individual. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C §434(b)(3)(A).

C. Best Efforts Ensures Compliance. When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee's reports and records will be considered in compliance with the Act. 2 U.S.C §432(h)(2)(i).

D. Definition of Best Efforts. The treasurer and the committee will be considered to have used "best efforts" with respect to contributions if the committee satisfied all of the following criteria.

- All written solicitations for contributions included:
 - a clear request for the contributors full name, mailing address, occupation, and name of employer; and
 - the statement that such reporting is required by federal law.
- Within 30 days of receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
- The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committees' records or in prior reports that the committee filed during the same two-year cycle. 11 CFR §104.7(b).

Facts and Analysis

A. Facts

A review of itemized contributions from individuals indicated that 73 contributions totaling \$17,426, or 52 percent of the dollar value of individual contributions required to be itemized by MDP, lacked disclosure of occupation and/or name of employer. During audit fieldwork, MDP provided no evidence showing that it had utilized "best efforts" to obtain, maintain, and submit the missing information. Most of the contributor entries with missing information were either disclosed with the notation "Best Effort" or left blank on the Schedules A (Itemized Receipts) filed with the Commission.

The Audit staff asked MDP representatives to describe MDP's best efforts policy. MDP representatives responded that no policy was in effect during the period covered by the audit. The Audit staff provided MDP with a list of contributors for whom occupation and/or name of employer information was missing. MDP returned this list to the Audit staff with the missing information filled in but noted that MDP had not contacted the contributors to obtain this information. The Committee explained that MDP representatives had obtained the information from personal knowledge of the individuals and research on the internet after receiving the list from the Audit staff.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the disclosure of occupation and name of employer with MDP representatives at the exit conference. MDP representatives reiterated that they had provided the missing information to the Audit staff and that they have established a standard new policy to collect all the required contributor information at the time contributions are accepted.

The Audit staff recommended that MDP provide documentation that it exercised best efforts during the audit period to obtain, maintain and submit the required contributor information. In addition, MDP should file amended Schedules A to disclose the contributor information obtained subsequent to audit fieldwork.

C. Committee Response to Interim Audit Report

In its response, MDP filed Schedules A that provided the missing occupation and name of employer information. Further, MDP explained that it has been unable to locate records that indicate it had made follow-up requests for donor information during the 2010 cycle, but noted that its solicitation materials regularly included a request for occupation and employer information. The Audit staff notes that as a result of these amended reports, MDP materially corrected the disclosure of its contributors' occupation and name of employer.

MDP also pointed out that it has developed best efforts procedures such that all solicitations include requests for occupation and employer information. In addition, the procedures include follow-up requests for donors' missing information within 30 days of receipt of a contribution. Furthermore, donors missing such information at the time a report is required to be filed trigger an internal review to ensure that MDP has not inadvertently omitted information contained within committee records at the time of filing. Any information received subsequent to a filed report will be included on amended reports.

Finding 4. Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that MDP did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to MDP employees totaling \$138,741, for whom MDP was required to maintain monthly payroll logs. In response to the Interim Audit Report recommendation, MDP implemented a plan to track employees' time spent on federal election activities.

Legal Standard

Maintenance of Monthly Logs. Party committees must keep a monthly log of the percentage of time each employee spends in connection with a federal election. Allocations of salaries, wages, and fringe benefits as follows:

- employees who spend 25 percent or less of their compensated time in a given month on federal election activities must be paid either from the federal account or be allocated as administrative costs;
- employees who spend more than 25 percent of their compensated time in a given month on federal election activities must be paid only from a federal account; and
- employees who spend none of their compensated time in a given month on federal election activities may be paid entirely with funds that comply with state law. 11 CFR §106.7(d)(1).

Facts and Analysis

A. Facts

During fieldwork, the Audit staff reviewed disbursements for payroll. MDP did not maintain any monthly logs or equivalent records to document the percentage of time each employee spent in connection with federal election activity. These logs are required to document the proper allocation of federal and non-federal funds used to pay employee salaries and wages. For 2009 and 2010, logs were required for \$138,741 in payroll.⁴ This amount represents the total payroll for employees paid with an allocation of federal and non-federal funds during the audit period. MDP had no employees paid with exclusively non-federal funds.

B. Interim Audit Report & Audit Division Recommendation

After the exit conference, the Audit staff discussed the payroll recordkeeping issue with MDP representatives. An MDP representative responded that MDP had not located any payroll logs or other payroll documentation.

Absent provision of any monthly logs, the Audit staff recommended that, MDP provide and implement a plan to maintain such monthly payroll logs to track the percentage of time each employee spends on federal election activity.

C. Committee Response to Interim Audit Report

In its response, MDP noted that it now maintains monthly logs to track employee time spent on federal election activities.

⁴ Payroll is stated net of taxes and benefits.