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September 19, 2013

MEMORANDUM

AGENDA ITEM

To: The Commission

Through: Alec Palmer *APC*
Staff Director

From: Patricia C. Orrock *PCO*
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By: Gary Hache *GH*
Lead Auditor

For Meeting of 11-14-13

Subject: Proposed Final Audit Report on the Arizona Republican Party (A11-21)

Attached for your approval is the subject report. The report has been written in accordance with Directive 70. Documents related to this audit report can be viewed in the Voting Ballot Matters folder.

This report is being circulated on a 72 hour no objection basis. Should an objection be received, it is recommended that the report be considered at the next regularly scheduled open session. If you have any questions, please contact Gary Hache or Marty Favin at 694-1200.

Attachment:
Proposed Final Audit Report on the Arizona Republican Party



Proposed Final Audit Report 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.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 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)

• Receipts

○ 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

Total Receipts **\$ 1,898,660**

• Disbursements

○ 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

Total Disbursements **\$ 1,904,154**

• **Levin Receipts** **\$ 20,301**

• **Levin Disbursements** **\$ 28,329**

Commission Findings (p. 4)

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

Additional Issue (p. 5)

- Reported Coordinated Party Expenditures

¹ 2 U.S.C. §438(b).

Proposed Final Audit Report on the Arizona Republican Party

(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 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.

Audit Hearing

The ARP declined the opportunity for a hearing.

Part II

Overview of Committee

Committee Organization

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

² 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)

Cash-on-hand @ January 1, 2009	\$ 4,399
Receipts	
○ 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
Total Receipts	\$ 1,898,660
Disbursements	
○ 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
Total Disbursements	\$ 1,904,154
Cash-on-hand @ December 31, 2010	(\$ 1,095)³
Levin Cash-on-hand @ January 1, 2009	\$ 8,535
Total Levin Receipts	\$ 20,301
Total Levin Disbursements	\$ 28,329
Levin Cash-on-hand @ December 31, 2010	\$ 507

³ Overdraft was cleared on January 6, 2011.

Part III

Summaries

Commission Findings

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.

The Commission approved a finding that the ARP misstated its financial activity for calendar years 2009 and 2010. (For more detail, see p. 6.)

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 Draft Final Audit Report no longer attributed the expenditures to the ARP's coordinated expenditure limit.

The Commission approved a finding that the reported expenditures of \$160,532 for one House candidate should not be attributed to the ARP's coordinated expenditure limit. (For more detail, see p. 9.)

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.

The Commission approved a finding that the ARP failed to report debts and obligations totaling \$81,948. (For more detail, see p. 13.)

Additional Issue

Reported Coordinated Party Expenditures

As detailed in Finding 2 above, 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 only provided a written description for expenditures totaling \$223,330, showing that the expenditures were not actually coordinated but qualified for the volunteer materials exemption and were not properly disclosed on its reports, for two House candidates. 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 Draft Final Audit Report no longer attributed the expenditures to the ARP's coordinated expenditure limit.

The Commission did not approve by the required four votes the Audit staff's recommended finding that the reported expenditures of \$223,330 for two House candidates should not be attributed to the ARP's coordinated expenditure limit.

Pursuant to Commission Directive 70,⁴ this matter is discussed in the "Additional Issue" section. As such, the expenditures totaling \$223,330 are not included in Finding 2. (For more detail, see p. 15.)

⁴ Available at http://www.fec.gov/directives/directive_70.pdf.

Part IV

Commission Findings

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.

The Commission approved a finding that the ARP misstated its financial activity for calendar years 2009 and 2010.

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 106.5(g).

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.

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

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 cancelled check or debit	(2,489)
• Unexplained difference	<u>3</u>
Net Understatement of Disbursements	<u>\$ 92,890</u>

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

2010 Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2010	\$64,805	\$2,903	\$61,902 Overstated
Receipts	\$1,258,374	\$1,357,885	\$99,511 Understated
Disbursements	\$1,305,991	\$1,361,883	\$55,892 Understated
Ending Cash Balance @ December 31, 2010	\$17,188	(\$1,095) ⁵	\$18,283 Overstated

⁵ 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>
Net Understatement of Receipts	<u>\$ 99,511</u>

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 cancelled check or debit	(11,788)
• Disbursements paid from non-federal accounts reported in error	(3,751)
• Unexplained difference	<u>215</u>
Net Understatement of Disbursements	<u>\$ 55,892</u>

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.⁶ 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.⁷ 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.

⁶ Paychex began providing payroll services on October 1, 2009; prior to that date, payroll services were provided by Business Management Solutions LLC.

⁷ 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.

D. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff acknowledged that the ARP amended its reports to correct the misstatements.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, the ARP accepted the Audit staff's determination that the misstatements had been corrected.

Commission Conclusion

On August 22, 2013, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a finding that the ARP misstated its financial activity for calendar years 2009 and 2010.

The Commission approved the Audit staff's recommendation.

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 Draft Final Audit Report no longer attributed the expenditures to the ARP's coordinated expenditure limit.

The Commission approved a finding that the reported expenditures of \$160,532 for one House candidate should not be attributed to the 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 costs 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 ARP did not provide to the Audit staff written assignment of authority from the national party committees to the ARP for making coordinated expenditures. Such written assignment of authority is required by 11 CFR §109.33(a). 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 \$43,500.⁸

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.

ARP Coordinated Expenditures	Paul Gosar for Congress	David Schweikert for Congress	Kelly for Congress	Total
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 ⁹	(\$5,000)	(\$5,000)	(\$5,000)	
Apparent Excessive In-kind Contributions	\$8,873	\$160,532	\$214,457	\$383,862
Coordinated Expenditures reported by the NRCC ¹⁰	\$85,000	\$0	\$85,000	

⁸ 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.

⁹ The ARP did not report any contributions to federal candidates during the 2010 election cycle.

¹⁰ Reported expenditures by the NRCC were made prior to the expenditures reported by the ARP.

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 had 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 had not exceeded 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.

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.¹¹

The Audit staff asked 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.¹² The ARP relied on this vendor to file accurate reports in a timely manner. The ARP has engaged

¹¹ 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 ARP inadvertently discarded records of the previous campaign activities. The ARP contacted the candidate committees and requested that they provide any additional information they might 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.

¹² The vendor notified the ARP 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.

a new compliance vendor 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 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.¹³

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 the ARP claims as qualifying as volunteer exempt activity should no longer be attributed to the ARP's coordinated expenditure limit.

D. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff acknowledged the ARP's response that provided a written description and documentation of the tasks performed by the volunteers. Given the lack of clarity regarding the application of the volunteer materials exemption, Audit staff did not attribute the expenditures to the ARP's coordinated expenditure limit.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, the ARP accepted the Audit staff's determination that the expenditures were not attributable to the coordinated expenditure limit.

Commission Conclusion

On August 22, 2013, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a finding that the reported expenditures of \$383,862 should not be attributed to the ARP's coordinated expenditure limit. The ARP had provided a written statement and photographs of volunteers for David Schweikert for Congress performing various duties relating to these expenditures.

The Commission approved a finding that the reported expenditures of \$160,532 for David Schweikert for Congress should not be attributed to the ARP's coordinated expenditure limit. (See Additional Issue, Part V below with respect to the remaining \$223,330 in reported expenditures relating to Paul Gosar for Congress and Kelly for Congress).

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.

¹³ Proposed Interim Enforcement Policy, Agenda document No. 10-16, Drafts A through D.

The Commission approved a finding that the ARP failed to report debts and obligations totaling \$81,948.

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.¹⁴ 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.

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.

¹⁴ This is the sum of the total unreported debt for each of the seven vendors during the period covered by the audit (debts counted only when incurred).

D. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff acknowledged that the ARP amended its reports to include the debts and obligations that were previously unreported.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, the ARP accepted the Audit staff's determination that the ARP had reported the debts and obligations.

Commission Conclusion

On August 22, 2013, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a finding that the ARP failed to report debts and obligations totaling \$81,948.

The Commission approved the Audit staff's recommendation.

Part V

Additional Issue

Reported Coordinated Party Expenditures

Summary

As detailed in Finding 2 above, 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 only provided a written description for expenditures totaling \$223,330, showing that the expenditures were not actually coordinated but qualified for the volunteer materials exemption and were not properly disclosed on its reports, for two House candidates. 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 Draft Final Audit Report no longer attributed the expenditures to the ARP's coordinated expenditure limit.

The Commission did not approve by the required four votes the Audit staff's recommended finding that the reported expenditures of \$223,330 for two House candidates should not be attributed to the ARP's coordinated expenditure limit.

Pursuant to Commission Directive 70, this matter is discussed in the "Additional Issue" section. As such, the expenditures totaling \$223,330 are not included in Finding 2.

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.

In the 2010 election cycle, state and local party committees were required to comply with the contribution limits below:

- \$5,000 per election to a federal campaign if the contributing committee had qualified as a multicandidate committee;
- \$2,400 per election to a federal campaign if the contributing committee had 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 costs 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 disbursements 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

As detailed in Finding 2, Part IV above, the ARP reported making coordinated expenditures for direct mail pieces totaling \$57,373 on behalf of Paul Gosar 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.

ARP Coordinated Expenditures	Paul Gosar for Congress	Kelly for Congress	Total
Reported Expenditures	\$57,373	\$262,957	
Less: Spending Limit	(\$43,500)	(\$43,500)	
Over Limit (In-kind Contribution)	\$13,873	\$219,457	
Less: Allowable Contribution ¹⁵	(\$5,000)	(\$5,000)	
Apparent Excessive In-kind Contributions	\$8,873	\$214,457	\$223,330
Coordinated Expenditures reported by the NRCC ¹⁶	\$85,000	\$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 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 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 and Kelly for Congress in the amount of \$214,457.

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

¹⁵ The ARP did not report any contributions to federal candidates during the 2010 election cycle.

¹⁶ Reported expenditures by the NRCC were made prior to the expenditures reported by the ARP.

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.¹⁷

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 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.¹⁸

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 the ARP claims as qualifying as volunteer exempt activity should no longer be attributed to the to the ARP's coordinated expenditure limit.

D. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff acknowledged the ARP's response that provided a written description of the tasks performed by the volunteers. Given the lack of clarity regarding the application of the volunteer materials exemption, the expenditures were not attributed to the ARP's coordinated expenditure limit.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, the ARP accepted the Audit staff's determination that the expenditures were not attributable to the coordinated expenditure limit.

Commission Conclusion

On August 22, 2013, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a finding that the reported expenditures of \$383,862 should not be attributed to the ARP's coordinated expenditure limit.

The Commission did not approve the Audit staff's recommended finding by the required four votes. The Commission could not reach a consensus that a written description of volunteer involvement alone is sufficient to qualify the expenses totaling \$233,330 in support of Gosar 2010 and Kelly 2010 for the volunteer materials exemption. Some Commissioners voted to approve the recommended finding. Other Commissioners determined that written assertions

¹⁷ Additional documentation, i.e. photographs of volunteers performing various tasks 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 ARP inadvertently discarded records of the previous campaign activities.

¹⁸ Proposed Interim Enforcement Policy, Agenda document No. 10-16, Drafts A through D.

absent any documentation of the nature and extent of the volunteer involvement would not be sufficient.

Pursuant to Commission Directive 70, this matter is presented as an "Additional Issue." As such, the expenses totaling \$233,330 are not included in Finding 2.