In the Matter of: )
) )
AUDIT HEARING: LOS ANGELES )
COUNTY DEMOCRATIC CENTRAL ) Docket No. A09-07
COMMITTEE )

Wednesday,
December 14, 2011
Conference Room
Federal Election Commission
999 E Street, N.W.
Washington, D.C.

The hearing commenced, pursuant to notice, at
10:05 a.m., before the Commissioners of the Federal
Election Commission, the Honorable CYNTHIA L. BAUERLY,
Chair, presiding.

APPEARANCES:
On Behalf of the Federal Election Commission:

Commissioners:
CYNTHIA L. BAUERLY, Chair
CAROLINE C. HUNTER, Vice Chair
MATTHEW S. PETERSEN, Commissioner
DONALD F. McGAHN II, Commissioner
STEVEN T. WALther, Commissioner
ELLEN L. WEINTRAUB, Commissioner

Staff:
TOM HINTERMEISTER, Office of the Staff Director
TONY HERMAN, General Counsel
APPEARANCES (Continued):

On Behalf of Los Angeles County Democratic Party:

STEVEN J. KAUFMAN, Esquire
Kaufman Legal Group
777 South Figueroa Street, Suite 4050
Los Angeles, California 90017
(213) 452-6565

ERIC BAUMAN, Chair
Los Angeles County Democratic Party
3550 Wilshire Boulevard, Suite 1203
Los Angeles, California 90010
(818) 755-4578
P R O C E E D I N G S

(10:05 a.m.)

CHAIR BAUERLY: Good morning. The Federal Election Commission will come to order. Today, we are here on an audit hearing for the Los Angeles County Democratic Central Committee. We are going — Commissioner Walther will join us as soon as he is available. We have scheduled this audit hearing for approximately an hour and we will provide an opportunity for counsel for the Committee, Mr. Kaufman, to provide information to the Commission and answer any questions.

At the outset, I do want to note that this is a fairly remarkable set of circumstances. I think it's clear the coincidence, alone, of sending the Committee the draft Final Audit Report on the same day that the treasurer was indicted was perhaps, I think, maybe a record for the Commission. I'm not sure that that's ever happened before and, hopefully, won't be a frequent occurrence. But I think it's fair to note that the report that was drafted by the Audit Division, obviously, was based on information that was provided by that individual. It reflects what had happened to that point thus far.

We have, as part of our procedure, the
opportunity for the Commission to request that the Committee submit supplementary information after this hearing. Our policy notes that the Commission discourages voluminous submissions and we provide 10 days to do that or a deadline that the Commission sets.

I would propose at the outset to my colleagues that given the unusual nature of this circumstance, that we ask the Committee and the auditors to work together, to provide as much information as available after this hearing and provide at least 30 days and more, if necessary, to ensure that the next version of the recommended report that comes before the Commission can fully reflect the reality, the changed reality, as much as it is able to, given the circumstances of this matter.

So if there's no concerns about that, I think we would leave the record open and ask -- you know, while I'm not sure we're encouraging voluminous submissions, I don't want you to be discouraged by what the policy says in terms of providing us the information that is necessary to make sure that this accurately reflects the fairly strange nature of this particular matter.

MR. KAUFMAN: Thank you.
CHAIR BAUERLY: So the Commissioners will have an opportunity to pose questions after we hear from counsel. Commissioners may also ask questions designed to elicit clarification from the Office of General Counsel or the Office of the Staff Director. The General Counsel and the Staff Director will have the opportunity to ask questions of the audited Committee and then we will conclude with an opportunity for closing remarks by Mr. Kaufman. So with that, I will turn it over to you. Please proceed.

MR. KAUFMAN: Thank you, Chair Bauerly and Commissioners. Good morning. My name is Stephen Kaufman of Kaufman Legal Group. I am counsel for the Los Angeles County Democratic Central Committee. To my left is Eric Bauman, who is the Chair of the Committee. And we want to first thank you for the opportunity to be heard on this matter and for accommodating our schedules, so that we could be here in person to testify to you today.

We are here to address new facts and information that came to light since the issuance of the draft audit report. And as the Chair mentioned, by sheer coincidence, the draft audit report was released on the very day that the Committee's former
Treasury was indicted on charges of federal mail fraud.

Those mail fraud charges arise from her misappropriation of Committee funds from -- in particular, the federal complaint that was filed related to her misappropriation of funds from a state account and the coverup that ensued from that, namely the transferring of funds from multiple client accounts and multiple business accounts to make up for the shortfalls in the money that she absconded with from that account.

In that complaint, Ms. Durkee, the former Treasurer, according to a declaration submitted by the FBI, admitted to misappropriating client funds for years. And in the months that have followed, we have become aware of substantial misappropriation, and I can tell you that my firm has been involved in representing numerous clients, who all have faced similar circumstances, as a result of Ms. Durkee's conduct.

Based on news reports and the lawsuits that have been filed and the criminal complaint, it appears that Ms. Durkee's actions affected over 400 committees and that the extent of her misappropriation looks like it well exceeds $10 million and could be substantially
more than that based on the information that's been provided by the various committees to date.

The extent of this misappropriation and the complexity of the coverup that appears to have taken place is unprecedented. And while this Commission and certainly other regulatory agencies have seen instances of embezzlement before by committee treasurers, these circumstances appear to be extraordinary and, as I said, unprecedented.

While we haven't had access to all records for this Committee and other committees, we certainly, as the months have gone by, have obtained access, to a limited degree, to some bank statements and other committee records.

And the lengths that Ms. Durkee went through to cover up the activity is truly remarkable. Falsified documents evidencing deposits of checks that were never deposited, transfers among various bank accounts, her own personal accounts, credit card accounts that served as holding accounts for client credit card transactions and just simply transactions among and between the accounts of her various clients evidence an attempt, you know, for somebody to be able to cover expenses when they became due or to cover up shortfalls in bank accounts when they became overdrawn.
And one of the additional documents we brought today, in addition to the materials that we submitted with our October 6th letter to this Commission, is a complaint that was filed by Senator Dianne Feinstein and her committee against First California Bank and Kinde Durkee and Associates.
alleging fraud and deceit in an attempt to recover the
millions of dollars that are missing from Senator
Feinstein's account. We have copies to distribute to
everybody.

We presented with our letter a copy of a
complaint and interpleader, which was filed by the
Bank, in an attempt to deal with the competing claims
from Los Angeles County Democratic Central Committee
and other committees who have been defrauded in an
attempt to recover their money. The Bank initially
refused to provide any of the committees with their
funds or any information regarding their bank
accounts. They subsequently filed an interpleader
action with the court, depositing the funds that were
remaining with the court. That action is currently
It has bounced from judge to judge. And the Feinstein campaign related the fraud case with the interpleader case, so it's now been put into the complex litigation courtroom in Los Angeles. There are hundreds of committees that are still responding to that suit and we suspect it will take quite a while, months, probably years to sort out all of the issues relating to the funds that remain in the accounts and that the committees won't see the money that is there for quite some time.

With respect to the L.A. County Democratic Central Committee, we believe that they lost almost $200,000, given all of their accounts, which include state accounts and federal accounts, based on the dollar amounts stated by the Bank when they deposited the funds. We believe that the federal account should have had in the neighborhood of $58,733, but that in fact based on the numbers in the interpleader suit, the Committee has $25,160.

Even more significantly, the Committee's Levin account, which we believe had almost $75,000 in it, has a total of $867 remaining in the bank account, which is not accessible to the Committee at this time or any time in the near future.
In response to these reports, the Los Angeles County Democratic Central Committee fired Ms. Durkee -- should be a no-brainer on that one -- and replaced her with a new treasurer and also replaced the attorney who had been hired by the party Committee to oversee the activities of Ms. Durkee's firm.

In addition to the fact that the Committee hired a person who had been a professional treasurer for years, representing numerous candidates and committees, primarily based in southern California, and relied on her experience and expertise, the Committee had hired a law firm, whose job and function it was to review the reports prepared by Ms. Durkee's office and to review financial reports that were generated by the treasurer on a regular basis, often on a daily basis, during cycles in which there was any significant activity, to provide the Committee with an additional level of oversight and accountability in reviewing the activities of their former treasurer. That firm has also been replaced.

You are now looking at the Committee's new counsel and we are actively working with the Committee to access records, trying to evaluate what happened. The records are still trickling in. Every once in a while, we get a burst of information through the Bank
or through some other channel that provides us with a little bit more than we knew yesterday.

But we still, you know, really don't know and probably never will know the full extent of what happened here, because while we might be able to see what happened on this Committee's end, we don't know what happened on the other end of a transaction. We don't necessarily know the origin of money that was coming into the account or where money was going to. We can just see it going in and out. So I'm not sure we'll ever have all of that information.

The Committee is considering its own action versus the Bank for fraud. We are in discussion right now about filing a separate suit. We have made our claim in the interpleader lawsuit to assert our rights to the funds that remain. And the Committee has implemented additional internal procedures and internal controls, you know, in an effort to ensure that this type of activity cannot happen in the future, despite the fact that it took what we believe to be substantial efforts previously, even while Ms. Durkee was treasurer, to implement controls over the process.

With respect to the transactions that are the subject of the draft audit report, as the audit
1 report reflects, the audit was the first time that the
2 individual officers of the Committee were aware of
3 these transactions. If one looks at the audit report,
4 the reasons for the overstatements or understatements
5 in the cash appear to all result from transactions
6 that were neither known to the persons responsible at
7 the Committee, the officers and the Chair, nor were
8 they authorized.
9
10 None of the transactions that are
11 highlighted in the audit report were authorized by
12 individuals within the Committee. There was a process
13 in place for approving expenditures and no
14 expenditures were supposed to be made from the account
15 unless they were authorized by one of two
16 representatives of the Committee and none of the
17 transactions that are in the audit report were subject
18 to that authorization.
19
20 And as a result of the circumstances I just
21 detailed to you, we do believe that the transactions,
22 which are the subject of the audit report, were of the
23 nature of the transactions that are detailed in the
24 complaint filed by the U.S. Attorney's Office and
25 those that are detailed in the Feinstein complaint,
26 that these were unauthorized transactions and
27 additional transactions that were intended to cover up
the activity by the Committee's then-treasurer. And we believe that the information that was provided to support those transactions during the course of the exit interview and the audit process, itself, which was based on information provided by the now-indicted treasurer, is not reflective of the actual nature of these transactions.

So with that, the purpose for our being here today is to ensure that the audit report reflects the actual facts, as they occurred, to the best we can, or at least reflects the facts and circumstances behind Ms. Durkee's indictment, the fact that we believe that these funds were misappropriated from the Committee's account, that the transactions reflecting monies coming into the account with no apparent explanation were a result of a cover up by the treasurer, that the Committee was unaware of these transactions as they were occurring, and that they were completely unauthorized transactions.

And, frankly, we think that those facts serve as the basis for questioning whether these transactions can even properly be characterized as receipts and disbursements that weren't disclosed on the Committee's report, since what we essentially have here are unauthorized transactions that involve the
Committee's monies going out, coming in.

But at the end of the day, it's the Committee's money that's simply moving around through various accounts without any authorization or knowledge of the Committee, itself. And we think that all of this needs to be taken into account and that this audit report needs to be looked at in a new light, given all the facts and circumstances that have unfolded since September 2nd.

I do want to add that there is one amount that has been stated in the audit report, that we have talked to the auditor about, that appears to be a misstatement. There is a reference on pages 3 and 4 of the audit report, relating to finding number 1, and it is a summary of the amounts that were overstated and understated for this Committee, for the Federal Committee. There are two accounts that are subject to the audit report: the Levin account and the Federal Committee. And in 2008, there's an amount stated that reflects an understated cash on hand that's understated by $25,661.

That amount is incorrect. The amount of the understatement is actually $4,752, not $25,661, and we have had conversations with the auditor about that and the auditor did indicate that that amount would be
corrected on the final version. But I wanted to make
the Commissioners aware of that fact. And so with
that, we are available for additional questions and
happy to discuss the facts and circumstances here in
greater detail, as you wish.

CHAIR BAUERLY: Thank you, Mr. Kaufman.

Questions from Commissioners? Commissioner Weintraub?

COMMISSIONER WEINTRAUB: Thank you, Madam Chair. Mr. Kaufman, other than that correction that
you just made, the $25,000 figure, which you say
should have been $4,000, do you think that the overall
kind of ins and outs that are described in this
report, are there other inaccuracies? Do you guys
know, are you in a position to say?

MR. KAUFMAN: Well of course we don't know
anything for sure because the person who could
probably answer those questions isn't here and
probably isn't likely to be here anytime soon to
answer those questions.

COMMISSIONER WEINTRAUB: And might not
answer them anyway.

MR. KAUFMAN: And might not answer them
anyway. We certainly don't dispute that the
transactions that are laid out in the report are, you
know, transactions that appear to be unaccounted for.
And I would suggest there are, and I think that the report only highlights, certain key transactions that go into the ultimate conclusion about the overstatements and understatements.

So I am sure that there are additional transactions out there that have resulted from various misconduct by the former treasurer, but I couldn't, we don't have enough information and I couldn't point to you today and say, on such and such date, this happened.

But it is -- you know, it does seem apparent to us, I mean, for example, there is a, in the Federal, in finding number 1, the Federal account, you know, there's a discussion about the $7,700 transaction that took place in December of 2008 that was characterized as an advance of credit card contributions that apparently had gone into a commingled, you know, credit card processing account and that the treasurer indicated to the auditors that the funds were being advanced and moved into the bank account.

In looking at the bank statements, it's apparent that the Committee was overdrawn at that point, that there had been, there's something like 20 overdrafts in the month of December for this
Committee, I mean, just an inexcusable amount of transactions and negligence in handling the account. It was overdrawn and it's clear that the money is moved into the account to help make up the shortfall, to bring the Committee, you know, into balance.

MR. BAUMAN: The Bank never alerted us.

MR. KAUFMAN: Yeah, I mean, that's information that we were never provided with from the Bank and we don't know exactly where the money was drawn from. We know what she said. So, you know, we can certainly point to things and say this doesn't look right, but I don't know that we'll ever be able to say exactly what happened.

COMMISSIONER WEINTRAUB: I guess that's what I'm trying to figure out, if as you take another month or however long, you can sit down with our auditors and try to sort through all this, are you going to be in a position, do you think it's possible that you'll ever be able to at least figure out money going in and money coming out, you know, what was going on with these accounts?

MR. KAUFMAN: Good question. I don't know. We might be able to address some circumstances, but we won't be able to address all circumstances. I mean, there's a transaction here that's an alleged transfer
from the nonfederal committee to the Federal Committee. We can certainly look at that transaction because we have both sides of it. I think we know the answer is it's not an administrative transfer that was done in accordance with, you know, the process that is set out for making those administrative transfers on a periodic basis, but we can at least look at both sides of that transaction.

COMMISSIONER WEINTRAUB: I'm just trying to get my mind around the scope of the problem --

MR. KAUFMAN: Understood.

COMMISSIONER WEINTRAUB: -- as I'm sure you are.

MR. KAUFMAN: Yeah and I think, you know, we need to be clear. I mean, we didn't come here with answers to every transaction that's listed today because we don't have those answers. But we do think that they need to be looked at in a different light than is reflected in the draft audit report.

CHAIR BAUERLY: Commissioner McGahn?

COMMISSIONER MCGAHN: Thank you. So we're clear on the timeline, the draft was written before the embezzlement situation was known, right? It's just the way our procedures work. So we all agree the audit report doesn't reflect reality in that sense.
MR. HINTERMEISTER: Exactly.

COMMISSIONER MCGAHN: Okay, all right.

MR. HINTERMEISTER: It was given to the Committee the same day that the --

COMMISSIONER MCGAHN: Right.

MR. HINTERMEISTER: -- person was indicted.

COMMISSIONER MCGAHN: A couple of questions.

The general theme, though, is what are we supposed to do. And let me start by saying, there's probably no worse feeling than being a party chair and trusting people to watch the money and you realize the people you've trusted have really let you down. And I view you as the victim, not as the perpetrator of anything, and the fact that the reports are messed up, no nice way to say this, not your fault, I understand that, and the person who caused it is not here and won't be here.

But the problem we have is we do have an audit ongoing and we've got to figure out first, I guess, what the report is going to look like, and, second, what kind of amendments you're going to require and what those are going to look like. And what I hear is you don't really have access to your own records because, one, the person who has them is under indictment, two, to the extent the Bank has
them, the Bank is essentially in an adverse posture
with you, at this point. There is the interpleader
suit, where the Bank has basically said, you guys all
figure it out. This is the money we have, good luck.

Now you have a gazillion, and that's a rough
approximation, you know, defendants in this suit,
right, where basically, you know, here's a pizza, you
have 40 people, you figure out who gets the eight
slices of pizza. And you're left completely on your
own with probably raw bank statements and transactions
that you can't really classify as one thing or
another. Before you knew there was embezzlement,
well, this looks like something to do with the credit
card account, so I guess this was an advance. It
makes no sense and now we know why it doesn't make any
sense.

COMMISSIONER MCGAHN: So even if we said you
need to do amendments, what are the descriptions going
to be, you know, embezzlement-related transactions?
You raised an interesting point, one I hadn't thought
of, and I'm not sure where we go with it. Maybe, you
could help me develop it.

We're auditing the L.A. County Democratic
Party. Is it an audit of the L.A. County Democratic
Party's bank account or is it an audit of the party
committee? Because if it's an audit of the bank account, well, the bank account is a mess. There's all kinds of money coming in and out. But if it's of the party committee and the party didn't authorize this kind of stuff, should you really have to report it?

Part of me says, probably you do somehow because what FECA did was centralize the accounts in the one place with one treasurers. You had to file it under oath, so there's one person on the hook to address a very real concern back when FECA was passed, slush funds and the like. But now, the converse is when you put one person in charge and they steal the money, what do you do?

So I'm not sure where we go from here because we have an audit report of the Committee and as a Commissioner, if you -- let me ask you this, if you were me, what would you do? I mean, we've go to account for this somehow and I think the audit report -- whether there's a finding -- is a completely different issue as to whether there's an enforcement case, I mean, and I've already stated where I am on all of that.

But we have an audit report and in the short term, what are we going to do? I'm sure there's a
bunch of information you can give to the auditors and they're going to work with you and I know without, you know, getting into internal stuff, we're cognizant of the issue. But you know, you have transactions, there's no way you're going to know what they're for, other than somebody stole the money. But how do we do what we need to do here? How do we thread this needle?

MR. KAUFMAN: Well, I do think that that one of the fundamental issues, is, again, that the Committee is required to report receipts and disbursements. Now, you know, Section 434(b) lays out a host of receipts that are to be disclosed by the Committee and disbursements that are to be disclosed by the Committee. And if you look at the categories, the laundry list provided there --

COMMISSIONER MCGAHN: Stolen money is not on the list.

MR. KAUFMAN: -- I don't see embezzlement and coverup, you know, caught in there. And even if you, you know, wanted to characterize them in some other way, I mean, there's not -- there aren't a lot of, you know, categories that this fits into. So you know, I don't know where the responsibility of the Committee falls on that.
I mean, certainly, the treasurer has responsibility for the Committee, you know, coextensive with the Committee and I, you know, think the audit report, you know, needs to reflect kind of the actions and culpability of both parties to that, being the Committee and the Committee's treasurer. And I think where possible, if the audit report can focus on the one and not the other, then that's where I would direct things.

Clearly, she didn't fulfill her obligations as a treasurer. But I don't think the same thing can be said for the Committee, who had no knowledge of these transactions, despite the fact that they had processes and procedures in place and had hired a professional treasurer to do it and which gave no authorization to these transactions.

COMMISSIONER MCGAHN: Let me ask you a little bit about your processes and procedures. You hired someone who held themselves out to be a professional treasurer, represented all kinds of other committees and, you know, had done this for years. You didn't try to do it yourself on the kitchen table. You hired someone who was held out as a professional. You mentioned you had a law firm reviewing that work, okay. The problem is if the reports are
internally consistent and add up on their face, the
law firm is not going to pick up embezzlement unless
they actually do a bank rec once a month or so, which
is really, you know, in hindsight, would have been --
but even then, a clever -- if someone is going to
steal, they're going to steal, and that's the problem
you have, is the way they kind of cover their tracks.
It just creates a mess in the snow and you will never
figure it out. Was the law firm paid?

    MR. BAUMAN: Yes.

    MR. KAUFMAN: Yes.

    COMMISSIONER MCGAHN: Any idea, and you
don't necessarily have to answer it, I don't want you
to guess, but how much you paid for compliance
services from this professional treasurer and this law
firm?

    MR. BAUMAN: Do you want to address that?

    COMMISSIONER MCGAHN: You don't have to
answer it today, but maybe if you could give it to us.
A not insignificant amount of money, I would say.

    MR. BAUMAN: Including the audit or not
including the audit?

    COMMISSIONER MCGAHN: Not including the
audit.

    MR. BAUMAN: We were averaging anywhere from
three to five thousand dollars a month in legal fees
for oversight and for having our counsel respond to
specifics of how do you code a certain item, which
account do you come from, what allocation to use, and
it was averaging, we were probably spending $65,000 to
$70,000 a year just on that.

COMMISSIONER MCGAHN: Just on that, okay.
So that's a significant commitment to compliance.
Internally, what other sorts of procedures did you
have? You mentioned you needed authorization of at
least one or two people. Was that the chair or maybe
political director? Is that someone other than the
treasurer?

MR. KAUFMAN: Yeah. There were actually, I
guess, three people who were authorized: the chair,
the controller, and the executive director all had
authorization authority in terms of telling the
treasurer what she was authorized to pay.

COMMISSIONER MCGAHN: Okay.

MR. KAUFMAN: And payments were not supposed
to be made without that authorization.

COMMISSIONER MCGAHN: How was that
authorization conveyed? Signoff sheet or was it oral?
I'm just trying to get a sense of fleshing out --

MR. BAUMAN: Originally, it was a written
document that was faxed and then as we became -- we
found the 21st century, it became an e-mail
transmission.

COMMISSIONER MCGAHN: Okay. So it's a
written signoff process?

MR. BAUMAN: Correct.

COMMISSIONER MCGAHN: What other sorts of
internal procedures did you have to ensure the monies
that you raised to talk to voters is actually spent to
talk to voters?

MR. KAUFMAN: Well, again, let me address
this -- again, financial reports were provided on
almost a daily basis. Now of course when the person
providing the financial reports is --

COMMISSIONER MCGAHN: Tricking them up.

MR. KAUFMAN: -- doctoring them, then
they're not going to be of much use. But there was a
lot of financial oversight and financial reporting.
There were biannual audits that were conducted,
internal audits conducted by the organization. The
organization --

COMMISSIONER MCGAHN: But by whom?

MR. KAUFMAN: There was a committee of the
political committee, a volunteer committee, that was
set up to do an internal review as recently as a
couple of years ago. And it was confirmed during that process that Ms. Durkee had a system in her office, in which different people performed different functions, in which one person was responsible for making payments, another person was responsible for overseeing the incoming funds, another person was responsible for actually preparing the campaign reports.

COMMISSIONER MCGAHN: You thought you had segregation of tasks even within your professional arm's-length treasurer, with a law firm looking over that person's shoulder at the tune of --

MR. KAUFMAN: Correct.

COMMISSIONER MCGAHN: -- 60 to 70K a year just for that?

MR. KAUFMAN: Correct.

COMMISSIONER MCGAHN: And a civilian board of people twice a year taking a look?

MR. KAUFMAN: Correct.

COMMISSIONER MCGAHN: Okay.

MR. KAUFMAN: Now, what actually happened of course we don't know. But I mean, I will tell you, in looking at what went on here, I mean, it's a head-scratcher because, you know, one's reaction to looking at the information, you say, how can anybody who is
preparing the reports not know what's going on over here.

But then, again, the extent to which this treasurer went to cover her tracks is so extraordinary, it's impossible to say who knew what and depending on the internal division in the office, you know, it's quite possible she could have manipulated stuff, so that other ends of the office weren't seeing it. I would find that hard to believe. But even with the division of tasks, you know, obviously, it didn't stop this from taking place, even with the division of tasks within her office.

MR. BAUMAN: If I may add, as somebody who has managed organizations with as many as 2,200 employees, I understand the basic separation of accounting and bookkeeping functions that are necessary to ensure financial safety and security for an organization. So the fact that the traditional separation of payables and receivables, having an account manager, having a separate compliance and reporting person, those things made me comfortable in my capacity as chairman to feel that as a fiduciary for Democrats in Los Angeles, I was doing my job. In fact, I think those very separations conspired to enable much of this to occur because
these people were at least theoretically firewalled from each other and something that happened here clearly, they could have had no idea what was going on here.

What confirms that for me in retrospect is that the FBI didn't come in and arrest all the employees. If the FBI had believed that there was a conspiracy internally, it would not only have been Ms. Durkee, who was carted off in handcuffs. And so that leads me to, that reinforces my belief that the normal separation of powers or separation of activities conspired to enable this.

MR. KAUFMAN: I should also add that the Committee has had at least two prior audits done at the state level by the Franchise Tax Board and had clean audits with no findings on both occasions.

COMMISSIONER MCGAHN: The reason why I asked about the controls is the Commission, a couple of years ago, well, more than a couple of years, did a policy about internal controls and, at the time, it was a positive. And what's frustrating is you look at things in the policy, that you need two signatures on checks, well, you learn the hard way that the bank doesn't care --

MR. KAUFMAN: Don't care.
COMMISSIONER MCGAHN: -- if Mickey Mouse and
Donald Duck sign the check, because they're going to
cash it and take the hit on the backside if it doesn't
clear. They put it on the consumer to police whether
the check should be right. It's a heartbreaking thing
when it happens. You realize, gee, what was the bank
doing. Well, they were just moving paper. And what
you say rings true.

You, also, have some electronic problems
here, right. I see there's a debit for 50 grand and
$10, at one point, the credit card holding account,
all the multiple signatures on a checkbook aren't
going to fix that in any way, shape, or form. And
something we haven't done is figure out how to help
people on that front. To me, if someone is going to
steal, they're going to steal.

The question is how fast you catch them,
just the way it's set up. And even with the, even
with all the controls you had, you still had someone
steal. And what's even more heartbreaking is the fact
that things were siloed on that end, probably enabled
it and allowed for malfeasance to continue longer.

So with the electronic stuff, can you talk
about that a little bit, maybe flesh that out,
because, to me, the policy that we have doesn't really
speak to it and it speaks to me the new vulnerability of campaigns is electronic transfers. You know, when you do a media buy, you send it to the station. You know, you probably electronically transfer money to your mail account, right, when you do your mail.

And credit card donations, that's a massive floating account, that if one person has many clients and float it in the same account, becomes a personal ATM machine, which seems to be part of what happened here. Would you flesh that out for us a little bit, the electronic stuff?

MR. KAUFMAN: Yeah and that's correct. I mean, we've entered a different age for dealing with these transactions. Again, committees like this, you know, the best they can do is set up a system of accountability, like requiring authorizations before those transactions are made and providing those authorizations to the bank, you know, is certainly one way of ensuring that those transactions are accounted for. But there is a big gap.

And I think one of the other issues here is her system of depositing electronically. You know, it's gotten to the point where you don't even need to, and I can tell you, I mean, our office experiences the same thing. You don't even have to go to a bank
anymore and present them with checks, you know, to be deposited into a bank account. It can all be done remotely. And if one wants to commit embezzlement, one can simply deposit those checks into another bank account that's linked to a remote deposit terminal.

Now again, as you said, if somebody wants to embezzle, they're going to be able to do it. The question is how quickly can you catch it, you know. In a well set-up situation, it should be caught on the monthly bank reconciliation. When it happens at the very top, as it did here, this wasn't just a rogue employee, you know, who was doing this. This is the person at the top, who has access to everything and can manipulate everything. So when it happens at the top, you know, when is someone going to catch them.

But with the ability to do things remotely and electronically these days, it does add to the burden on committees like this to implement controls and almost have to be involved in the day-to-day functions that is the very reason why you hire a professional treasurer in the first place. And part of the basis for hiring a professional treasurer, who has a reputation, is to be able to rely on someone who is professionally trained in this, so that you can hand some of those functions to those people.
And if you have assurance that the proper
division of labor and accountability is being done on
that end, then it should relieve the Committee of some
of those tasks in having to do them themselves. But
it's all part of the internal controls.

I mean, I think one of the things that the
internal controls don't speak to, it kind of addresses
a situation where a committee has a staff that
undertakes these functions. But the internal control
policy laid out by the Commission, I think, doesn't
essentially recognize that what the committee is doing
by hiring a professional treasurer is hiring on to
those internal controls.

MR. BAUMAN: One thing I'd just like to add,
you may or may not be aware, Durkee had a simultaneous
business called ETRIBUTE, which was a credit card
processing firm. And most of the clients, LACDP
included, used that service, because it was a little
bit cheaper ultimately than a traditional processing
service and most importantly for us, and part of the
reason we did it, it was fully integrated
theoretically into our reporting and depositing
system.

And we were made to understand that it
actually increased the rapidity with which the funds
were made available to us. And of course looking at the records that we received, it looked like a transaction that we made today often posted by 5:00 that day on our reports.

COMMISSIONER MCGAHN: Right, which is the trick. I mean, political committees, with credit cards, folks are sometimes hesitant because it takes a while to get the money. So you had somebody, you know, we can get paid fast and of course you're going to sign up for that and it fits --

MR. BAUMAN: Worth 2.5 percent.

COMMISSIONER MCGAHN: -- hand in glove in the reports. And then, it turns out it was really the treasurer's ATM machine apparently and a backdoor way to the cookie jar. Thanks.

CHAIR BAUERLY: Commissioner Petersen?

COMMISSIONER PETERSEN: Thank you, Madam Chair. I just wanted to follow up, just had a further question about the internal controls here. There was something on page 4 of your letter, which talked about the Committee received regular financial reports that tracked the Committee's internal records of its activities and I was just wondering how that exactly worked.

Was she, was Ms. Durkee also, were the
internal records developed with information that Ms. Durkee was providing, so that those two records were matched? Could you explain a little bit further how, to the extent you know at this point, how those were being reconciled?

MR. BAUMAN: So on a daily basis, and I admit to over neurosis on this, on a daily basis, I received a balance sheet, an income and expense statement, and a profit and loss summary year to date. I received a reconciliation report once a month and I received a donor report, federal, well, a donor report for each of my committees once a month.

Those reports all came from -- Durkee had proprietary software with which she kept data and spit out reports and I believe it was hooked up to QuickBooks or some equivalent system that produced these daily reports that I received. And everyday at approximately 5:00 or 5:30, my account representative would send me those reports.

COMMISSIONER PETERSEN: Okay.

MR. KAUFMAN: But at the same time, the Committee itself was maintaining records of receipts from donors --

MR. BAUMAN: Correct.

MR. KAUFMAN: -- and reviewing those
reports. So they had kind of a running balance of what they thought was coming into the account based on stuff that they were tracking on their end and comparing with these reports that were being generated by the treasurer.

COMMISSIONER PETERSEN: Okay. And just to the extent you know, how was -- and you mentioned how this was, I mean, probably the most extensive and certainly complex embezzlement scheme that we know of that's happened to date. How were those, again, to the extent you know, how were those numbers being manufactured to ensure that those were matching internal records?

MR. KAUFMAN: Well, for example, you know, again, from what we know and what we can piece together and what we've seen with other committees, you know, a contribution that was received by a credit card, getting back to Commissioner McGahn's statements, and went into this commingled account were being included on these financial reports, but may never have found their way into the Committee's bank accounts.

MR. BAUMAN: Same with checks that were received.

MR. KAUFMAN: Yeah, and checks that had been
received and such. So they may have been received, put on a report as received, put on the financial records as in the bank, but never found their way. I mean, we've seen just extraordinary things in some of the transactions for these various committees. I saw one committee that had, not this committee, but another committee, where a $150,000 check was written from a committee's related account into another related committee account.

We even have a copy of the check that was provided to us a year ago, before this even came to light, that reflects the deposit of that check in the Committee's bank account. And yet, when all of this came to light, that check was never deposited in the Committee's bank account, despite the fact that we have some kind of doctored document that shows a deposit. It has on the back a deposit stamp and a signature and everything else, was never deposited into that bank account.

So you know, this was all numbers and the fact that it may not have found its way into the bank account was not necessarily reflected in the financial reports that were provided.

COMMISSIONER PETERSEN: Okay. Also, to pick up on, well, one of the last things that you had
mentioned in your statement and also Commissioner McGahn picked up on this, you know, the question of where do we go now. You raised the issue about whether or not unauthorized transactions, in this case which were embezzled, regarding embezzled monies, whether or not those should be considered receipts for disclosures that should be properly reported.

The concern that arises in my head about that approach is if we adopted that approach, because there's a universe of unauthorized transactions and potentially embezzled funds would be one of those. And if we adopted a rule that said unauthorized transactions don't have to be reported, then we could end up with what committees are reporting on their disclosures as being cash on hand not matching up with what bank records might show.

And so, at least in my own mind, I'm wondering about the practicality of that versus, I think the larger point is that, and maybe this is really what you're driving at, in this sort of a case, where you have a remarkable set of facts where a very extensive embezzlement operation was going on, if that is, if it's that sort of set of circumstances, which leads to reports not being accurate, should the Commission be taking that into account, in terms of
determining what, if any, action we should be taking on the back end.

This is an issue that we've dealt with periodically with embezzlement, small and large scale, what do you do with the committee. My approach is generally to take a lighter touch with committees who have been subject to embezzlements. As Commissioner McGahn mentioned, I think that, in this case, it's committees like you that are the victims and even if there are technical violations of the law, I think that in terms of how we exercise our enforcement jurisdiction, I think that we need to really take that into account.

But just to dive back into this legal issue, is it your point that we shouldn't -- how hard are you recommending that the Commission not consider these sorts of unauthorized transactions to be receipts or disbursements that don't need to be disclosed versus it's the larger point that the Commission really needs to make sure that we take a fully fleshed-out, three-dimensional realistic view of the facts here before making any decisions about how we want to treat this in the audit context and in the enforcement context.

MR. KAUFMAN: I realize that what I'm saying about classifying these or not classifying these as
receipts and disbursements is a rather, you know, extraordinary approach. I mean, you have to have accountability. But I do think that under these circumstances, under these narrow circumstances, you know, it's something that you should look hard and fast at.

But I do think that the larger issue that you raise is most pertinent here and that is how do you treat this Committee, in light of the fact that it has been victimized and in light of the fact that -- I mean, ultimately, you know, it's less important, I think, to the public to be able to identify kind of how this money was moving around than to ensure that, you know, ultimately, the public has a view of what's, you know, what's in the committee.

What money does the committee have now and, you know, maybe the difference between where it thought it was and where it is now, and less about all the various transactions that may have occurred with money in, money out, that -- I mean, at the end of the day, it's nice to be able to figure it out, but what advantage do we gain from the disclosure of all of that back and forth, when in fact you know, the transactions aren't really signifying any activity on behalf of the Committee.
I mean, it's nice that the $35,000 payment went to the Pasadena United Democratic headquarters, but it's not because it was a contribution to that committee or this Committee was trying to, you know, give money to that committee. It's because Ms. Durkee had a shortfall on that end and, therefore, was moving money from one pot to another. So the mere fact that the Committee may not have disclosed that transaction, I'm not sure what information that's giving the public, that's helping the public assess the political activities of either of those committees.

COMMISSIONER PETERSEN: Thank you.

CHAIR BAUERLY: Commissioner Weintraub?

COMMISSIONER WEINTRAUB: Thank you, Madam Chair. Nobody is disputing that these were extraordinary circumstances, and I think you're hearing sort of a consistent theme of interests on the Commissioners' parts about internal controls that you had in place. So I think I would find it helpful and perhaps some of my colleagues would, as well, if, in the course of the next few weeks, you could pull together for us a detailed description of all of the internal controls that you had in place or thought you had in place. I think that would be helpful to us. I know it would be helpful to me.
I mean, I think on the general question of whether you should disclose the transactions, assuming you could figure them out, which, I think, you know, right now is an open question. It sounds like, you know, whether anybody will ever figure out exactly where all this money moved to at any one time.

I mean, I do think that if I were a donor to this Committee, I would want to know what happened to my money. I do think there's a public interest in, to the extent possible, trying to figure out what the heck happened and, you know, whether -- like I said, whether that can be done. It might take a forensic accountant to do it, but I think, you know, I would personally be supportive of trying to get as much information on the public record as is possible about what actually happened here.

And as my colleagues have noted, it's an entirely separate question whether, you know, you should be held accountable at some point, in some way, for misstatements that may have occurred as a result of all that. You know, that's a whole separate question. We're not there. We're trying to figure out what to do with this audit.

And you may or may not know the answer to these and maybe you could fold them into this
description of the internal controls, but did you have
a system in place that required two signatures for the
checks and was the Bank following that procedure? Or
was the second signature forged? Or what was going on
with that?

MR. BAUMAN: The Bank has a policy of not
having a double signature policy.

COMMISSIONER WEINTRAUB: That's unfortunate.

MR. KAUFMAN: That's the answer to your
question. And with respect to your other comments, I
do want to be clear about one thing. In response to
the audit and at the request of the auditors, the
Committee did file amended reports that did reflect --

COMMISSIONER WEINTRAUB: I appreciate that.

MR. KAUFMAN: -- the findings as stated in
the audit report. There has been some disclosure of
payments, accurate or otherwise. You know, with
respect to ultimately being able to report those
transactions accurately, we'd like to be in a position
to do that. The dollars involved in trying to get to
that point might be absolutely extraordinary. I mean,
I suspect that, you know -- --

COMMISSIONER WEINTRAUB: And I hear that,
too.

MR. KAUFMAN: -- we're never going to be
able to get that --

COMMISSIONER WEINTRAUB: I mean, if it would
take, if it would cost a $1 million to figure out what
happened to $4,000, that doesn't make a lot of sense.

MR. KAUFMAN: And I should add that, for
what it's worth, the Fair Political Practices
Commission, in trying to grapple with some of this,
has given -- this is the California state agency
dealing with state committees, has permitted
committees to essentially reconcile their accounts
between the money they thought was going to be there
and the money that is there by kind of creating block
entries that indicate that the money was either, you
know, money going out or money coming in, as a result
of the misappropriation of funds by the former
treasurer...

COMMISSIONER WEINTRAUB: Now, it sounds like
what you were saying before was that the treasurer was
creating fake bank statements, what looked like fake
bank statements, showing deposits that didn't exist.
But my question is, did, you can respond to that in a
second. But where I'm really going with this is did
somebody other than the treasurer get monthly copies
of the bank statements from the Bank?

MR. KAUFMAN: I didn't mean to imply that
she was falsifying bank statements. That's not accurate. She was falsifying financial records and, in some instances, apparently, falsifying transactions. With respect to the bank statements, no, at the time, the bank statements were not going to persons other than her and people in her office. So that's where part of the disconnect lies. The reconciliations were going to the client, in this case, the Committee, but the bank statements were not.

COMMISSIONER WEINTRAUB: But if, for example, your lawyers had gotten copies directly from the Bank of the bank statements and it used those to try and reconcile the records they were getting from her, presumably, you would have caught on to this a lot sooner.

MR. BAUMAN: I want to say this respectfully, but for a committee that deals in the level of dollars that we do, we spent over, on an average year, $100,000 between treasury services and legal oversight, in an attempt to comply. If you look at what the volume is, what the balances in our Committee were, we were expending an extraordinary amount of money in our best effort to comply. The cost of this audit to us to date is over $100,000. This is not a committee that sits with a
million dollars in its account, nor is it a committee or group of officers who, in any way, was lax, because I personally take my reputation to be the one thing I have in this game. Hence, the reason that we have what we believed was such sophisticated management of our money, of our reporting, and of our oversight, because, as you know, in this trade, what do you have other than your reputation. So anyway, I'll just leave it at that.

COMMISSIONER WEINTRAUB: And I don't mean to impugn anybody's reputation who is sitting here today.

MR. BAUMAN: And I did not take it that way.

COMMISSIONER WEINTRAUB: We want to talk about people who aren't sitting at the table. But you know, the people who are sitting here today, I completely accept, you know, acted in good faith and were trying their best. And, Mr. Kaufman, you probably came in long after all this happened. But I'm trying to think -- this has been a big problem for a lot of committees. Obviously, you are not the only one that has had this problem.

This particular individual victimized a lot of committees and we've had other individuals who have victimized other committees, often individuals that were well known to the principals and the managers of
political committees and obviously trusted, you know.
I mean, we've had stories of people who said, you know, this guy was my good friend and look what he did to me. You know, it's a real sense of betrayal.

So I don't, you know, ultimately, you've got to trust somebody, right? I mean, you can't, you can put in a lot of controls in place, but ultimately, you have to trust people to do the right thing and sometimes that trust is not well founded, as we all find out to our misfortune.

But I'm trying to figure out, you know, what can we tell, how can we help committees to avoid these kinds of problems. One aspect of the safe harbor, and it's just a safe harbor, it's not a requirement, that the Commission offered in 2007 was that bank statements be reviewed for unauthorized transactions and reconciled to the accounting records each month. Further, bank records are reconciled to disclosure reports prior to filing, and the reconciliations are done by someone other than a check signer or an individual responsible for handling the committee's accounting.

Now, we didn't get, you know, into the nitty-gritty, this is a fairly broad set of principles that we put out there. But you know, it seems to me
that one thing that really would have been helpful to you and, possibly, we should be more aggressively recommending it to other committees going forward, is to make sure somebody else is getting it straight from the bank and is taking those, somebody who is outside of the ambit of the person who is otherwise doing your bookkeeping and writing the checks, and that they're doing the cross-checks.

Because, you know, you just could have saved yourself a lot of heartache that way and I think a lot of committees that -- you know, in retrospect, you know, that would have been better, right, if we had caught this earlier. Nobody is happy with where we are today.

MR. KAUFMAN: And that's well-founded advice and, in retrospect, one wishes that were the case. But again, in doing their own internal review and in hiring this professional and in having the conversation with the professional, they were told that the functions for reviewing and reconciliation and checkwriting were being placed in different people within the office.

MR. BAUMAN: And for perspective, she had a staff of 30 people. So I think that's important to note. It made it very believable when you went into
an office that was a giant open office with cubicles all around and there were clearly delineated different people doing different things. It wasn't like a one-person shop. So you had a bookkeeper doing payables, receivables, writing the checks, doing the reports. I mean, it clearly was delineated duties.

COMMISSIONER WEINTRAUB: And do you think that there were different people who were doing these different functions?

MR. BAUMAN: There were. That, I know, because I had to answer questions to different people depending on what was going on or my staff did. So we knew that it was very different people responsible for different parts.

COMMISSIONER WEINTRAUB: So how did the other people in this organization -- I guess we're all still trying to figure out how this all happened.

MR. KAUFMAN: Yeah. I mean, as to your ultimate question, you know, when that bank statement came in, who was reviewing -- you know, can we be sure, as we sit here today, that, you know, there was some delineation, we don't know. But I mean, at least with respect to the appearance of different people performing different tasks, I mean, clearly, there were different people preparing the reports, from
people dealing on the expenditure side, from people
dealing with the contributions coming in, because they
were dealing with different people for different
functions.

So there was no reason for them to question
the fact that there was a third person, you know,
reviewing the bank statements. I can assure you that
now the Committee is receiving its bank statements.

COMMISSIONER WEINTRAUB: So we just -- I
mean, do we still not know -- you know, was she
pulling the wool over the other people's eyes in her
organization or was she like stealing the paperwork
off their desk, we just don't know?

MR. KAUFMAN: We really don't. I mean, it's

--

MR. BAUMAN: And those people have all gone
underground, to be quite honest. You cannot find
them. One FBI agent called me, asked me if I knew the
home address of one of the employees. Coincidentally,
I did, because it was my account manager, but
literally, they all went underground because they're
trying to avoid --

COMMISSIONER WEINTRAUB: But don't get me
wrong. I mean, I'm not trying to lay fault at your
door. I mean, this was quite an enterprise and many,
many people were taken in by it.

CHAIR BAUERLY: Just to follow up a little bit on what Commissioner Weintraub said, I think that, and fortunately, we're all learning some lessons from this case. And I think as we learn more and have some understanding of to what extent we will, it might be useful for the Commission to take a look at that safe harbor and really see whether there are additional things to put in or to make clearer. The safe harbor, I don't know, it wasn't necessarily written with the idea of using a vendor, as was what happened in this case.

So it might be, the fact that there were two people inside the vendor looking at bank recs and doing the bank reconciliation, it turns out doesn't help you when there's a massive fraud going on. If it's in your own offices, you know, if these were your staff, you would obviously have had a much better opportunity to understand what was going on.

So I think that, I agree with Commissioner Weintraub, this is, when someone is as determined as she was to steal people's money, it seems very difficult to see how even the safe harbor could. But I, also, think that it's important for us to think about the vendor context, because, as you point out,
she told you she had these things in place, as I understand it, and, obviously, had been working with a number of other committees and I'm guessing you relied on that, as well.

MR. BAUMAN: Correct, and the range of committees that she represented ranged from, you know, Senator Dianne Feinstein, to Democratic clubs who, you know, have $500 a year in total revenues. And additionally victimized in this were several dozen small nonprofits for whom she provided business management services. So this has such a broad sweep and such an effect.

And, you know, Commissioner Weintraub said that she wasn't trying to lay blame at me, but the reality is, I'm the chair of the party. I'm responsible for what it does and doesn't do. And I hold myself out and believe that the operation of the organization I run is one of the best in the country, if not the best in the country. So I can't tell you the level that this discourages my ego to be in this situation. And I say that, you know, not in humor, even though I think it's humorous.

This is very important to me and I think the public has a right to know what's going on in campaign finance. I happen to believe in disclosure for the
simple reason that people question what is going on in their politics and their government. I don't know -- ultimately, my lawyer and the Commission and the auditors will have to figure out how we report this, but I know, to be sure, that this is an extraordinarily costly venture and we will never be able to put back what is gone.

And, you know, you're triple-victimized. And I'm not, I mean, I have to live with that. I have to figure out how to get past that and I think that there are many hundreds of other individuals and organizations and candidates who will have to figure out how to do the same thing. And quite frankly, I had a very pleasant trip to Washington D.C. to meet with you all, but I would just have been happy to be in Los Angeles where it's warmer.

CHAIR BAUERLY: We're sorry about the weather. We cannot actually do anything about that.

MR. BAUMAN: No snow, though. I was hoping for one day of snow.

CHAIR BAUERLY: Other further questions from Commissioners? Commissioner McGahn?

COMMISSIONER McGAHN: Thank you. I certainly agree the L.A. County Democratic Party has a very good reputation of being a very efficient and
well run political operation. And, again, I just --

it's horrible what's happened to you and I can't
express that in any stronger terms.

If you do a monthly bank rec and someone
else gets the bank statement, generally, that will
catch a lot of embezzlement. But in your case, I'm
not even sure that would have caught it because you
are a local party, you have your hard account, you
probably have a nonfederal account. You may have
multiple nonfederal accounts because of your big donor
thing in California, right?

You have that weird thing where you clip
some money, right, that trick. And then, you have a
Levin account and you have your overhead ratio. So
you're moving money to make up your overhead ratio all
the time. You may do a fundraiser that may raise
money for all three accounts. You have to figure how
to pay for that. Somebody has to be able to pull the
trigger and move that money. Otherwise, well, then
there's going to be a finding that you didn't move the
money within 60 days, plus or minus 10 and all of
that.

So it's not as simple as you get one bank
statement and you look at one FEC report, yes, that
matches. Even to do the bank rec is a whole other
level of cost, simply because you guys play in federal, state, and local elections, and you're subject to FEC, FCCP, IRS, local tax. So I'm just throwing it out there, that if you have any ideas in your submission, you know, or maybe just to help the discussion for longer term, because I think we're transitioning to how we fix the problem in the future now, how to do this.

I mean, a bank rec helps, but, you know, there was a national party that was embezzled because they had a rogue finance field person set up a ghost account, solicited money, put it in the ghost account, and one of those big donors called the national party to complain why didn't I get a thank you note. The national party said, what are you talking about, and like you, they kept records of their donors and they were able to catch the embezzlement. It wasn't necessarily embezzlement, it was somebody setting up a shell account and then they caught the person because, well, the donor didn't get a thank you. That's sort of the more traditional stealing.

This is an inside job. And it's really tough because you have so many multiple accounts and you have a federal law that says you have to have one
person in charge of all that to sign one report under oath. And when that person is the bad apple, you're stuck.

So now that we're stuck, now that we're all in this together, when you're a victim of theft and now you have to report all of this stuff, you're sort of driving around in the mud. Now you have to back up the car until you find some dry land, where you know the numbers balance. I'm not sure you can do that because, like I said at the beginning, you don't really have the bank on your side.

The person with the records is, well, indicted. Everybody else now we know has gone underground and scattered because they're probably lawyering up, as well. You have the FBI probably asking a lot of questions, trying to do a forensic, to try to figure out the criminal case. You don't want to get in the way of that. And then, you have, you know, the FEC coming in with an audit.

Can we find dry land on this and, if not, is there a place where we can sort of start, do a reset, and figure out a point for going forward reporting that it can add it up, so there's sort of one report that sort of says, embezzlement problem, cash on hand doesn't match the report, and we sort of do a reboot
in going forward? Because, if you can't find dry
land, that's the only option.

Can you maybe discuss that approach or how
to get this going forward? Because you, also, need
something to tell the public and your donors, hey,
credibility has been restored, our house is in order
and we're so, it touches on a lot of levels. But
maybe again, could you help us figure out how to do
this in a way that doesn't cost you another hundred
grand when you're a local party that maybe does, what,
700-800 grand a year? I mean, you're out of money in
a hurry here if we keep messing around. So how do we
get this fixed and move on?

MR. KAUFMAN: Believe me, I keep hearing
from my client about how out of money they are every
time I talk about a bill here.

MR. BAUMAN: I'll pay your bill when I get
my money back.

COMMISSIONER MCGAHN: And the longer we sit
here, sorry, the more money we're burning, but it may
be money well spent.

MR. KAUFMAN: Again, to address your point,
well, as I mentioned before, the Fair Political
Practices Commission has essentially proposed exactly
that, kind of a catchup entry, to bring your campaign
reports into balance with what the current situation actually is and maybe doing a lump sum in and out, to bring those reports current.

So to address that part of the issue, I think that's one way of dealing with it. Because we can sit here and talk about, you know, trying to find every in-and-out transaction or how do you characterize this or how do you characterize that. But the point is, the money has gone out of the account, so how do we, you know, account for it.

The other thing I should add is that with the change, it probably goes without saying, but, I mean, the Committee has opened up new bank accounts, new bank, fresh start. You know, we know how to track that activity now. We know where we started after September 2nd and we know where we've gone from there. So you know, hopefully, it's a new day and we're able to account for, you know, kind of where we're at.

But there is going to be a gap between whatever happened previously and where things stood on September 2nd, when the bank accounts became frozen, and we are going to have to deal with that. I mean, putting the audit aside, from 2007 to 2008, we have to deal with that when the Committee files its next report in January, coming up soon, there's going to be
COMMISSIONER MCGAHN: Yeah, that's the question.

CHAIR BAUERLY: Well, as --

COMMISSIONER MCGAHN: This isn't the time for us to decide.

CHAIR BAUERLY: Well, it's not, but also of course our Reports Analysis Division has been working with lots of committees on this problem and they have some solutions, including filing Form 99 to explain what's going on. So I think that there's certainly help available to you and how to do that.

COMMISSIONER MCGAHN: It used to be when then Congressman, now Speaker Boehner had a problem, I recall, I think he had to go back three years and do amendments and that used to be, at least, the way RAD approached it and I think they still do that in some instances. I'm not sure you can go back three years and make amendments because you don't have the records, what the money went to. That may not be an option. But I'm certainly open to the fresh start idea, as the state agency is doing. I don't see any other way around this.

Now, how you guys do your report? That's a work in progress and I hope everyone keeps an open
mind and works through this. But you do raise a good point, you still have reports due and they're under oath and someone has to sign those. And all of a sudden, you have the new person saying, how can I sign this. I know these numbers aren't right. So even though we don't decide that today, they have to decide it pretty soon. So what do we do? We put an asterisk, it's under oath, it's close enough? I mean, it's a very tough position you're in.

And I do want to thank you for taking the time and the expense to fly out here to talk to us. I think it's been very helpful for me and I think that it's not a cheap trip. And the downside of giving people the ability to come and have oral presentations in front of the Commission is they actually come and do oral presentations, and if you're not a Beltway guy, it's not cheap.

So that's another cost you've endured to deal with this that I think needs to be put on the scale of things you've done to make this right. So I don't have any other questions, but we do have to figure out in the short term, when is your next report due?

MR. KAUFMAN: In January.

COMMISSIONER MCGAHN: Yeah, pretty soon.
Year End, right?

MR. KAUFMAN: Yeah.

MR. BAUMAN: It should be an interesting year, a big hole in the middle of it.

CHAIR BAUERLY: Any other questions from Commissioners?

(No further questions from Commissioners.)

CHAIR BAUERLY: Any questions from the Office of the Staff Director?

MR. HINTERMEISTER: Yeah. I just wanted to get clarification on just a couple of things in your response, namely, on page 2, and earlier you said that there's losses of approximately $200,000. Do you know the time period on that? Was that all within the audit period or are we talking over a long period of time?

MR. KAUFMAN: No, that amount, and again, that reflects all of the various accounts of this political organization, state and federal, that is the difference between what the Committee understood or believed that was in its accounts as of September 2nd, and the amounts that were actually in their accounts as of September 2nd. So we don't know the period of time that resulted in that discrepancy. We don't know if that relates to transactions in and out dating back
to 2007, 2008, '09, '10. I mean, we just know that
that's an amount that the Committee's records --

MR. HINTERMEISTER: Okay.

MR. KAUFMAN: -- are out of balance.

MR. BAUMAN: And may I add just one thing,
the other thing that we don't know is if there were
expenses over the course of years that were paid, that
might not actually have been our expenses --

MR. HINTERMEISTER: Okay.

MR. BAUMAN: -- if you follow what I mean.

So we had an expectation, based on our balance sheet,
of what was in each account. We were given a number
by the Bank of what was in there. So those are the
two numbers, as Mr. Kaufman referenced. Whatever
might have happened prior in addition, I don't know.

MR. KAUFMAN: It could be attributable to
contributions that never made it into the bank
account. It could be attributable to funds that were
taken out of the bank account and put in other
clients' accounts. I mean, it could be attributable
to a host of transactions.

MR. HINTERMEISTER: Okay. And then my
second question is kind of in response to Commissioner
McGahn's comments, working backwards and trying to
find dry land. Is that a possibility at all? I mean,
just looking at the draft audit report and looking at
the adjustments that are in there, is there anyway
that some of those misstatements were not tied to the
embezzlement and we could come to kind of a bright
line between what was caused by the embezzlement and
what was not caused by the embezzlement?

MR. KAUFMAN: Unfortunately, I don't think
we can answer that question with any certainty. I
mean, I do think that I can say that unless we're all
going to be shocked, I can't imagine that the
transactions that we're talking about here have to do
with anything other than the embezzlement or the
desire to cover up some other transactions. I mean,
they don't make much sense and I think the auditors
found that they didn't make much sense.

MR. HINTERMEISTER: Okay. I don't have any
further questions.

CHAIR BAUERLY: Are there any questions from
the Office of General Counsel?

MR. HERMAN: We have no questions, Madam
Chair.

CHAIR BAUERLY: Okay, thank you. Mr.
Kaufman, we allow the counsel for the Committee to
conclude our hearing with any additional remarks, if
you have any. We've obviously gone on for an hour-
and-a-half, so we've covered a lot of ground. But please proceed if you have anything further you would like to provide for the Commission.

MR. KAUFMAN: Thank you. I think we've covered most of the ground that needs to be covered. I just want to again thank the Commission for affording us this opportunity to explain the circumstances and to hear us out on all of the issues that this Committee has faced, I think as has been noted numerous times in this hearing room.

The L.A. County Democratic Party is a victim here and we hope that whatever way that the audit report ultimately gets issued, that it reflects the true set of circumstances and reflects who was responsible for these transactions and the fact that this Committee, you know, had no knowledge or understanding of the transactions that are at issue and should not be held responsible for whatever failings there may have been on the part of the Committee to report these transactions in accordance with the federal Election Law.

So we appreciate the opportunity to be heard today. We are happy to come to Washington, D.C. and visit your fair city anytime. But, hopefully, it will be under other circumstances in the future. And we
Thank you, again, for accommodating us on the scheduling of this hearing.

CHAIR BAUERLY: Thank you. Thank you, both, for appearing before the Commission today. We appreciate the information and your presentation. This hearing is adjourned. Thank you.

(Whereupon, at 11:30 a.m., the hearing in the above-entitled matter was concluded.)
REPORTER'S CERTIFICATE

DOCKET NO.: A09-07

CASE TITLE: Audit Hearing: Los Angeles County Democratic Committee

HEARING DATE: December 14, 2011

LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Election Commission.

Date: December 14, 2011

Kyle P. Johnson
Official Reporter
Heritage Reporting Corporation
Suite 600
1220 L Street, N.W.
Washington, D.C. 20005-4018