



Draft Final Audit Report of the Audit Division on the Los Angeles County Democratic Central Committee

January 1, 2007 – December 31, 2008

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. 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)

Los Angeles County Democratic Central Committee is a local party committee headquartered in Burbank, California. For more information, see the chart on the Committee Organization, p.2.

Financial Activity (p. 2)

• Receipts	
○ Contributions	\$ 297,749
○ Loans Received	7,700
○ Other Receipts	10,025
○ Transfers from Non-Federal Funds	503,595
○ Transfers from Levin Funds	38,845
Total Receipts:	\$ 857,914
• Disbursements	
○ Operating Expenditures	\$ 787,495
○ Loan Repayments	7,700
○ Other Disbursements	79,573
Total Disbursements	\$ 874,768
• Levin Receipts	\$153,473
• Levin Disbursements	\$156,930

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Misstatement of Levin Financial Activity (Finding 2)

¹ 2 U.S.C. §438(b).

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Part I

Background

Authority for Audit

This report is based on an audit of the Los Angeles County Democratic Central Committee (LACDCC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission approved procedures, the Audit staff evaluated the following areas in this audit:

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

Scope Limitation

The treasurer of LACDCC (the Treasurer) operates an accounting firm that handles LACDCC's accounting, recordkeeping and reporting. The firm also acts as LACDCC's credit card processor. The same credit card merchant account is used to process contributions for LACDCC and a number of other clients. The Audit staff did not have access to complete records for this account and therefore was limited in its ability to verify the proper accounting of transactions relating to the account.

Part II

Overview of Committee Committee Organization

Important Dates	LACDCC
• Date of Registration	September 6, 1994
• Audit Coverage	January 1, 2007 – December 31, 2008
Headquarters	Burbank, CA
Bank Information	
• Bank Depositories	1
• Bank Accounts	4 (Federal Account, 1 Levin Account and 2 Non-Federal Accounts)
Treasurer	
• Treasurer When Audit Was Conducted	Kinde Durkee
• Treasurer During Period Covered by Audit	Kinde Durkee
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Reconciling Tasks	Paid staff and volunteer

Overview of Financial Activity (Audited Amounts)

Federal Cash-on-hand @ January 1, 2007	\$ 18,888
o Contributions	297,749
o Loans Received	7,700
o Other Receipts	10,025
o Transfers from Non-Federal Funds	503,595
o Transfers from Levin Funds	38,845
Total Federal Receipts	\$ 857,914
o Operating Expenditures	787,495
o Loan Repayments	7,700
o Other Disbursements	79,573
Total Federal Disbursements	\$ 874,768
Federal Cash-on-hand @ December 31, 2008	\$ 2,034
Levin Cash-on-Hand @ January 1, 2007	\$ 381
Total Levin Receipts	\$ 153,473
Total Levin Disbursements	\$ 156,930
Levin Cash-on-hand @ December 31, 2008	-\$ 3,076

Part III Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

A comparison of LACDCC's reported federal activity with bank records revealed a misstatement of cash-on-hand, receipts and disbursements in 2007 and 2008. In 2007, LACDCC overstated beginning cash-on-hand by \$5,228, understated receipts by \$8,920, understated disbursements by \$9,311 and overstated ending cash-on-hand by \$5,619. In 2008, LACDCC understated receipts by \$34,278, disbursements by \$33,411 and ending cash-on-hand by \$25,661. In response to the Interim Audit Report, LACDCC amended its reports to correct the misstatements presented in that report.

The Audit staff also identified an apparent prohibited or excessive contribution contained in the 2008 misstated receipts. In response to the Interim Audit Report, LACDCC provided evidence showing that the receipts should not be considered contributions. (For more detail, see p. 4.)

Finding 2. Misstatement of Levin Financial Activity

A comparison of LACDCC's reported Levin activity with bank records revealed a misstatement of cash-on-hand, receipts and disbursements in 2008. Specifically, LACDCC understated receipts by \$16,328 and disbursements by \$101,669 and overstated ending cash-on-hand by \$85,341. In response to the Interim Audit Report, LACDCC amended its reports to correct the misstatement of Levin financial activity. (For more detail, see p. 9.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

A comparison of LACDCC's reported federal activity with bank records revealed a misstatement of cash-on-hand, receipts and disbursements in 2007 and 2008. In 2007, LACDCC overstated beginning cash-on-hand by \$5,228, understated receipts by \$8,920, understated disbursements by \$9,311 and overstated ending cash-on-hand by \$5,619. In 2008, LACDCC understated receipts by \$34,278, disbursements by \$33,411 and ending cash-on-hand by \$25,661. In response to the Interim Audit Report, LACDCC amended its reports to correct the misstatements presented in that report.

The Audit staff also identified an apparent prohibited or excessive contribution contained in the 2008 misstated receipts. In response to the Interim Audit Report, LACDCC provided evidence showing that the receipts should not be considered contributions.

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 the calendar year; and
- The total amount of disbursements for the reporting period and 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) and (4).

B. Receipt of Prohibited Contributions – General Prohibition.

Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans) from the treasury funds of the following prohibited sources:

- Corporations (i.e. any incorporated organization, including a non-stock corporation, an incorporated membership organization or an incorporated cooperative);
- Labor Organizations; or
- National Banks. 2 U.S.C. §441b.

C. Extension of Credit by Commercial Vendor.

A commercial vendor, whether or not it is a corporation, may extend credit to a candidate or political committee provided that:

- The credit is extended in the vendor's ordinary course of business (see below); and
- The terms of the credit are similar to the terms the vendor observes when extending a similar amount of credit to a nonpolitical client of similar risk. 11 CFR §116.3(a) and (b).

D. Definition of Ordinary Course of Business.

In determining whether credit was extended in the ordinary course of business, the Commission will consider whether:

- The commercial vendor followed its established procedures and its past practice in approving the extension of credit;
- The commercial vendor received prompt, full payment if it previously extended credit to the same candidate or political committee and
- The extension of credit conformed to the usual and normal practice in the commercial vendor's industry or trade. 11 CFR §116.3(c)

E. Party Committee Limits.

A party committee may not receive more than \$5,000 per year from any one contributor. 2 U.S.C. §441a(a)(1)(C), (2)(C) and (f); 11 CFR §§110.1(d) and 110.9.

F. Contributions by Limited Liability Companies (LLCs).

A limited liability company is a business entity that is recognized as an LLC under the laws of the state in which it is established. An LLC that elects to be treated as a corporation by the Internal Revenue Service under 26 CFR 301.7701-3 shall be considered a corporation pursuant to 11 CFR Part 114. An LLC that makes a contribution to a candidate or committee shall provide information as to how the contribution is to be attributed and affirm that it is eligible to make the contribution. 11 CFR §110.1(g)

Facts and Analysis**A. Facts**

The Audit staff reconciled the reported financial activity with the bank records for 2007 and 2008. It determined that LACDCC misstated cash-on-hand, receipts and disbursements for both years. The following charts outline the discrepancies and provide explanations for the differences.

2007 Activity	Reported	Bank Records	Discrepancy
Opening Cash Balance	\$24,116	\$18,888	\$5,228 Overstated
Receipts	\$312,959	\$321,879	\$8,920 Understated
Disbursements	\$299,683	\$308,994	\$9,311 Understated
Ending Cash Balance	\$37,392	\$31,773	\$5,619 Overstated

The net understatement of receipts resulted from the following:

• Offset to operating expenditures not reported	+ \$9,245
• Unexplained differences	- 325
Net Understatement of Receipts	\$8,920

The net understatement of disbursements resulted from the following:

• Disbursements not reported	+ \$847
• Disbursements reported with incorrect amounts	+ 9,389
• Reported disbursements that did not clear bank	- 98
• Reported voided disbursements	- 827
Net Understatement of Disbursements	\$9,311

2008 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance	\$37,392	\$31,773	\$5,619 Overstated
Receipts	\$501,758	\$536,035	\$34,277 Understated
Disbursements	\$532,364	\$565,774	\$33,410 Understated
Ending Cash Balance	\$6,786	\$2,034	\$4,752 Overstated

The net understatement of receipts resulted from the following:

• Unreported advance from credit card processor (see below)	+ \$7,700
• Unreported transfers from non-federal account (see below)	+ 42,596
• Reported transfer from Levin fund that was never made	- 16,272
• Unexplained differences	+ 253
Net Understatement of Receipts	\$34,277

The net understatement of disbursements resulted from the following:

• Unreported repayment of advance from credit card processor	+ \$7,700
• Unreported disbursements to credit card processor (see below)	+ 15,000
• Unreported disbursements	+ 7,877
• Reported disbursements with incorrect amounts	+ 26,873
• Reported disbursements that did not clear bank	- 1,374
• Reported voided disbursements	- 66
• Reported disbursement paid from Levin account	- 22,600
Net Understatement of Disbursements	\$33,410

LACDCC misstated the cash balances throughout 2007 and 2008 due to the errors outlined above and unknown adjustments from prior reporting periods. LACDCC overstated the cash balance on December 31, 2008 by \$4,752.

Advance from and Repayment to Credit Card Processor-\$7,700

LACDCC's federal account received advances from its accounting firm and credit card processor, Durkee & Associates,³ on credit card proceeds that were being delayed. The advances totaled \$7,700 and occurred between December 22 and December 26, 2008. The committee prepared and dated checks to repay the advances on the days it received them, but the checks did not clear the bank until February 17, 2009. LACDCC did not report the advances of \$7,700 and the repayments of the same amount, as noted above.

In addition to the reporting issues relating to these transactions, the Audit staff considers the \$7,700 received from Durkee & Associates an advance or an extension of credit outside the ordinary course of business. See 2 U.S.C. § 3118(A)(i) or see 11 C.F.R. §§ 100.55, 116.1(e), 116.3. As such, the \$7,700 received by LACDCC is a contribution and either an excessive contribution of \$2,700 (\$7,700 is less than the allowable contribution limit of \$5,000) or a prohibited contribution of \$7,700, depending on whether Durkee & Associates, as a limited liability company, elected to be treated as a partnership or a corporation for tax purposes.

Disbursed to Credit Card Processor-\$15,000

On December 31, 2008, three checks totaling \$15,000 were drawn from the federal account. Each check was payable to Durkee & Associates. LACDCC did not report the checks on its disclosure reports. LACDCC's counsel explained that the Treasurer withdrew the funds from the federal account as part of the reconciliation process to identify possible errors involving the deposit of credit card contributions. LACDCC returned the funds to the federal account once it determined that there were no problems with credit card contributions. As was the case with the redeposit of the \$45,000 to the Levin account (see Finding 2), however, LACDCC redeposited the \$15,000 in the federal account months later. Durkee & Associates returned the money in four increments between May and December of 2009.

The Treasurer provided a listing of credit card contributions totaling \$61,491 that were deposited into the shared credit card merchant account and identified as contributions to LACDCC. These credit card contributions apparently represent the funds Durkee & Associates withdrew from LACDCC's bank accounts (Levin account (\$45,000) and the federal account (\$15,000)) while reconciling the credit card merchant account. Based on available records of Durkee & Associates, the Audit staff could not determine whether LACDCC funds were used by Durkee & Associates during the period it held them.

³ Durkee & Associates is operated by LACDCC's Treasurer, Kinde Durkee. Durkee & Associates is an accounting and business management firm with clients including political and non-profit organizations, as well as small businesses.

Transfer from Non-federal Account-\$15,000

LACDCC failed to report a transfer received from its non-federal account in the amount of \$15,000. According to LACDCC's counsel, the \$15,000 was erroneously transferred from LACDCC's non-federal account to its federal account on December 31, 2008, the same day it wrote the checks to the credit card processor. Without receipt of this transfer, LACDCC's federal bank account would have had a negative balance of \$7,044 on December 31, 2008.

LACDCC transferred \$15,000 on November 9, 2009 to return the funds to the non-federal account. LACDCC's counsel stated the purpose for the original transfer was unclear, and that no one from LACDCC's management was informed of, or consulted about, the erroneous \$15,000 transfer or the return of those funds. Rather, LACDCC management became aware of these transactions solely as a result of this audit. The Audit staff could not determine the reason for the transfer from the non-federal account based on available records. The Audit staff verified that the funds were returned to the LACDCC's non-federal account.

The non-federal account transferred less than its share of allocated federal/non-federal costs during the audit period. As such, the federal account could have accepted the non-federal transfer without resulting in overfunding.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff presented the misstatements noted above to the representatives for LACDCC during the exit conference. The representatives did not provide any information to explain the misstatements, but indicated that they would file amended reports to correct these errors.

The Audit staff recommended that LACDCC file amended reports to correct the misstatements. LACDCC should amend the cash balance of its most recent report with an explanation that the amendments are due to audit adjustments from a prior reporting period.

LACDCC should also provide information concerning the \$7,700 advance from its credit card processor to establish that it was made in the ordinary course of business. The information should include:

- The specific terms that Durkee & Associates apply to such extensions of credit;
- Whether similar terms are offered to nonpolitical customers of similar size and risk of obligation;
- Rationale for why Durkee & Associates chose the time it did to negotiate LACDCC's checks representing repayment;
- Information about Durkee & Associates' tax status; and
- Any other information LACDCC believes might clarify the transactions.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, LACDCC amended its reports, correcting the misreporting. Also, LACDCC amended its cash balance on its May 2011 monthly report and noted that the adjustment was pursuant to the Audit staff's direction.

To establish that the advance of \$7,700 from its credit card processor was made in the ordinary course of business, LACDCC's response explained that Durkee & Associates considered short-term advances to its clients as benefits encompassed in its 3 percent credit card transaction fee. It provided a listing of 45 short-term advances that Durkee & Associates made to both its political and non-political clients dating back to 2001.

LACDCC sufficiently demonstrated that the \$7,700 from Durkee & Associates had a business purpose and was not for the purpose of influencing a federal election. As a result, the transaction is not considered a contribution.

Finding 2. Misstatement of Levin Financial Activity

Summary

A comparison of LACDCC's reported Levin activity with bank records revealed a misstatement of cash-on-hand, receipts and disbursements in 2008. For 2008, LACDCC understated receipts by \$16,328 and disbursements by \$101,669 and overstated ending cash-on-hand by \$85,341. In response to the Interim Audit Report, LACDCC amended its reports to correct the misstatement of Levin financial activity.

Legal Standard

A. Reporting.

If a state, district or local party committee's combined annual receipts and disbursements for federal election activity (FEA) total \$5,000 or more during the calendar year, the committee must disclose receipts and disbursements of Federal funds and Levin funds used for FEA. 11 CFR §300.36 (b)(2).

B. Contents of Levin Reports. Each report must disclose:

- The amount of cash-on-hand for Levin funds at the beginning and end of the reporting period;
- The total amount of Levin fund receipts for the reporting period and the calendar year;
- The total amount of Levin fund disbursements for the reporting period and the calendar year; and
- Certain transactions that require itemization on Schedule L-A (Itemized Receipts of Levin Funds) or Schedule L-B (Itemized Disbursements of Levin Funds). 11 CFR §300.36 (b)(2).

Facts and Analysis

A. Facts

The Audit staff reconciled the reported Levin financial activity with the bank records for 2007 and 2008. Staff determined that LACDCC misstated cash-on-hand, receipts and disbursements for 2008. The following chart outlines the discrepancies for 2008 and provides explanations for the misstated Levin activity.

2008 Levin Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance	\$960	\$960	\$0
Receipts	\$135,990	\$152,318	\$16,328 Understated
Disbursements	\$54,685	\$156,354	\$101,669 Understated
Ending Cash Balance	\$82,265	\$(3,076)	\$85,341 Overstated

The understatement of receipts resulted from the following:

- Unreported transfer from federal account + \$6,328
 - Unreported contribution + 5,000
 - Refund of contribution reported as a negative receipt instead of a disbursement + 5,000
- Understatement of Receipts** \$16,328

The understatement of disbursements resulted from the following:

- Unreported disbursements to Durkee & Associates (see below) + \$45,000
 - Unreported transfer to non-party committee (see below) + 35,000
 - Other unreported disbursements + 32,941
 - Disbursement incorrectly reported as transfer to federal account⁶ - 16,272
 - Refund of contribution reported as a negative receipt instead of a disbursement + 5,000
- Net Understatement of Disbursements** \$101,669

LACDCC misstated its Levin ending cash balances for 2008 due to the errors outlined above. On December 31, 2008, the committee overstated the Levin cash by \$85,341.

⁵ The negative ending cash balance was due to an outstanding check that was not negotiated until February 2009. During the period that it was outstanding, the Levin bank statements showed a positive cash balance.

⁶ LACDCC disbursed \$22,600 from its Levin account to a vendor, but it reported this transaction as a \$16,272 transfer to the federal account, which is the amount that could have been transferred from the Levin account if the disbursement had been paid properly from the federal account. The \$22,600 is included in the \$32,941 amount of disbursements that were not reported. LACDCC also did not report the transfer of \$6,328 – the federal share of the \$22,600 expenditure – from its federal account to the Levin account.

Amount Disbursed from Levin Fund-\$45,000

Between December 5 and December 22, 2008, four checks made out to Durkee & Associates totaling \$45,000 were drawn on the Levin account. LACDDC did not report the checks on its Schedules L. According to LACDCC's counsel, Durkee & Associates closely examined its credit card merchant account⁷ at the end of 2008 and determined that a number of clients had received duplicate transfers relating to credit card contributions. Durkee & Associates concluded that reversing all credit card transfers made to its clients was the best way to avoid potential reporting issues. Durkee & Associates would then re-transfer the correct amount of credit card contributions based upon a reconciliation of its merchant account.

However, credit card contributions were not deposited into the Levin account during the audit period. As such, there seemed to be no reason for Durkee & Associates to withdraw funds from this account. LACDCC deposited credit card contributions in the federal account. However, between December 5 and December 22, 2008, LACDCC did not have \$45,000 in its federal bank account. (See Finding 1. above). The \$45,000 withdrawn from the Levin account was not re-deposited until March 23, 2010.

The committee made an earlier attempt to re-deposit the money in March 2009. LACDCC's counsel provided a check in the amount of \$45,000 made out to the Levin Fund, along with a deposit ticket dated March 13, 2009. However, this check never cleared and was not posted to the account.

LACDCC's counsel stated that LACDCC management was not informed of, or consulted about, the \$45,000 originally withdrawn from the Levin Fund account, the merchant account check issued to LACDCC in March 2009 or the merchant account check issued to LACDCC in March 2010. LACDCC management became aware of these transactions only as a result of the audit. The Treasurer contends that Durkee & Associates has since improved its internal controls to avoid this type of situation in the future. LACDCC forwarded a description of the internal control improvements to the Audit staff. These internal controls include general changes to accounting and recordkeeping procedures, but do not specifically detail procedures that would minimize the risk of commingling LACDCC proceeds with those of other committees and Durkee & Associates.

Amount Transferred from Levin Account-\$35,000

On November 25, 2008, LACDCC made a transfer of \$35,000 from the Levin account to a non-party committee, Pasadena Area United Democratic Headquarters (Pasadena United), which is another Durkee & Associates client. The committee did not report the transfer on its Schedules L. LACDCC's counsel explained that the transfer was supposed to be made from Durkee & Associates' credit card merchant account to Pasadena United, but the funds were taken from the Levin account in error.

⁷ This merchant account was a shared account that received credit card contributions for LACDCC and Durkee & Associates' other political committee clients, many of which had the same treasurer as LACDCC.

The Treasurer refunded the \$35,000 to the Levin Fund account from the Durkee & Associates merchant account in three increments between December 17, 2009 and January 28, 2010. The Treasurer explained that this was more efficient than transferring \$35,000 from Pasadena United to the Levin account and then transferring \$35,000 to Pasadena United from the Durkee & Associates merchant account. The Treasurer believed this was an appropriate resolution because the merchant account was the intended source of the funds.

LACDCC's counsel states that no one from LACDCC management was informed of, or consulted about, the error, the method of reversing the erroneous transaction, the timing or reporting of the error, the return of funds or any other aspect of the corrective effort undertaken by the Treasurer.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff presented the misstatements of Levin activity to the representatives for LACDCC during the exit conference. The representatives did not provide any information to explain the misstatements, but indicated that they would file amended reports to correct the errors.

The Audit staff recommended that LACDCC file amended reports to correct the misstatements of Levin activity. The Audit staff also recommended that LACDCC reconcile the cash balance on its most recent report to identify any subsequent discrepancies that could affect the recommended adjustments to cash.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, LACDCC amended its reports correcting the misreporting.