



Interim Audit Report of the Audit Division on the Mississippi Democratic Party Political Action Committee

(January 1, 2009 - December 31, 2010)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

The Mississippi Democratic Party Political Action Committee is a state party committee headquartered in Jackson, Mississippi. For more information, see the chart on the committee organization, p. 2.

Financial Activity (p. 2)

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

Findings and Recommendations (p. 3)

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

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

Scope of Audit

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

1. the receipt of contributions from prohibited sources;
2. the disclosure of individual contributors' occupation and name of employer;
3. the consistency between reported figures and bank records;
4. the disclosure of disbursements, debts, and obligations;
5. the completeness of records; and
6. other committee operations necessary to the review.

Request for Early Commission Consideration of a Legal Question

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

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

Part II Overview of Committee

Committee Organization

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

Overview of Financial Activity (Audited Amounts)

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

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

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of MDP's reported financial activity with its bank records revealed a misstatement of receipts and disbursements in calendar year 2009. The Audit staff recommends that MDP amend its disclosure reports to correct these misstatements.

In addition, MDP filed original reports for 2010 that were materially understated. Specifically, MDP's original reports understated receipts by \$221,646 in 2010. MDP did amend its reports prior to the notification of this audit to correct the misstated receipts activity for 2010. The Audit staff recommends that MDP provide any additional information or written comments that it considers relevant to the matter. (For more detail, see p. 4.)

Finding 2. Disclosure of Disbursements

The Audit staff reviewed disbursements itemized on the disclosure reports and identified disbursements totaling \$361,109 with missing payee addresses. The Audit staff recommends that MDP file amended reports to include this information. (For more detail, see p. 6.)

Finding 3. Disclosure of Occupation/Name of Employer

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

The Audit staff recommends that MDP provide documentation that it exercised best efforts to obtain, maintain and submit the required contributor information or amend its reports to disclose the new occupation and/or name of employer information. (For more detail, see p. 7.)

Finding 4. Recordkeeping for Payroll

During audit fieldwork, the Audit staff determined that MDP did not maintain any monthly payroll logs, as required, for the percentage of time each employee spent on federal election activity. For 2009 and 2010, the amount of payroll for which logs were required was \$138,741. Absent provision of any monthly payroll logs, the Audit staff recommends that MDP implement a plan to maintain monthly payroll logs to track the percentage of time each employee spends on federal election activity. (For more detail, see p. 9.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of MDP's reported financial activity with its bank records revealed a misstatement of receipts and disbursements in calendar year 2009. The Audit staff recommends that MDP amend its disclosure reports to correct these misstatements.

In addition, MDP filed original reports for 2010 that were materially understated. Specifically, MDP's original reports understated receipts by \$221,646 in 2010. MDP did amend its reports prior to the notification of this audit to correct the misstated receipts activity for 2010. The Audit staff recommends that MDP provide any additional information or written comments that it considers relevant to the matter.

Legal Standard

Contents of Reports. Each report must disclose:

- the amount of cash-on-hand at the beginning and end of the reporting period;
- the total amount of receipts for the reporting period and for the calendar year;
- the total amount of disbursements for the reporting period and for the calendar year; and
- certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b) (1), (2), (3), (4) and (5).

Facts and Analysis

A. Misstatement of Financial Activity - 2009

1. Facts

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

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

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

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

The understatement of receipts was the result of the following:

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

The understatement of disbursements was the result of the following:

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

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

2. Interim Audit Report & Audit Division Recommendation

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

The Audit staff recommends that, within 30 calendar days of service of this report, MDP:

- amend its reports to correct the misstatements for 2009; and
- amend its most recently filed report to correct the cash-on-hand balance with an explanation that the change resulted from a prior period audit adjustment and reconcile the cash balance on its most recent report to identify any

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

subsequent discrepancies that may impact the \$45,889 adjustment recommended by the Audit staff.

B. Misstatement of Financial Activity – Increased Activity

1. Facts

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

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatements for 2009 and 2010 with MDP representatives during the exit conference. The Audit staff recommends that, within 30 calendar days of service of this report, MDP submit any additional information or written comments it considers relevant to the matter.

Finding 2. Disclosure of Disbursements

Summary

The Audit staff reviewed disbursements itemized on the disclosure reports and identified disbursements totaling \$361,109 with missing payee addresses. The Audit staff recommends that MDP file amended reports to include this information.

Legal Standard

Reporting Operating Expenditures. When operating expenditures to the same person exceed \$200 in a calendar year, the committee must report the:

- amount;
- date when the expenditures were made; and
- name and address of the payee and purpose. 11 CFR §104.3(b)(3).

Facts and Analysis

A. Facts

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

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with MDP representatives at the exit conference and subsequently provided them with a schedule of disbursements with missing payee addresses. At the exit conference, MDP representatives agreed to file amended reports to disclose the missing addresses. The Audit staff recommends that, within 30 days of service of this report, MDP amend its reports to correct these omissions.

Finding 3. Disclosure of Occupation/Name of Employer

Summary

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

The Audit staff recommends that MDP provide documentation that it exercised best efforts to obtain, maintain and submit the required contributor information or amend its reports to disclose the new occupation and/or name of employer information.

Legal Standard

- A. Itemization required for contributions from individuals.** A political committee other than an authorized committee must itemize any contribution from an individual if it exceeds \$200 per calendar year, either by itself or when combined with other contributions from the same contributions. 2 U.S.C §434(b)(3)(a).
- B. Required Information for Contributions from Individuals.** For each itemized contribution from an individual, the committee must provide the following information:
- the contributor's full name and address (including zip code);
 - the contributors occupation and the name of his or her employer;
 - the date of receipt (the date the committee received the contribution);
 - the amount of the contribution; and
 - the calendar year-to-date total of all contributions from the same individual. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C §434(b)(3)(A).
- C. Best Efforts Ensures Compliance.** When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee's reports and records will be considered in compliance with the Act. 2 U.S.C §432(h)(2)(i).
- D. Definition of Best Efforts.** The treasurer and the committee will be considered to have used "best efforts" with respect to contributions if the committee satisfied all of the following criteria:
- All written solicitations for contributions included:

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

Facts and Analysis

A. Facts

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

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

A. Interim Audit Report & Audit Division Recommendation

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

The Audit staff recommends that, within 30 calendar days of service of this report, MDP provide documentation that it exercised best efforts during the audit period to obtain, maintain and submit the required contributor information. In addition, MDP should file amended Schedules A to disclose the contributor information obtained subsequent to audit fieldwork.

Finding 4. Recordkeeping for Payroll

Summary

During audit fieldwork, the Audit staff determined that MDP did not maintain any monthly payroll logs, as required, for the percentage of time each employee spent on federal election activity. For 2009 and 2010, the amount of payroll for which logs were required was \$138,741. Absent provision of any monthly payroll logs, the Audit staff recommends that MDP implement a plan to maintain monthly payroll logs to track the percentage of time each employee spends on federal election activity.

Legal Standard

Maintenance of Monthly Logs. Party committees must keep a monthly log of the percentage of time each employee spends in connection with a federal election.

Allocations of salaries, wages, and fringe benefits as follows:

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

Facts and Analysis

A. Facts

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

B. Interim Audit Report & Audit Division Recommendation

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

Absent provision of any monthly logs, the Audit staff recommends that, within 30 calendar days of service of this report, MDP provide and implement a plan to maintain such monthly payroll logs to track the percentage of time each employee spends in connection with a federal election.

⁴ Payroll is stated net of taxes and benefits.