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July 8, 2014

**BY ELECTRONIC MAIL AND U.S. MAIL**

Federal Election Commission  
Audit Division  
Kendrick Smith  
999 E Street, NW  
Washington, DC 20463  
EM: Audit@fec.gov; Ksmith@fec.gov

Re: **Draft Final Audit Report (DFAR) – Republican Party of Orange County (Federal)**

Dear Mr. Smith:

The Republican Party of Orange County (Federal) (RPOC) contests Finding No. 4 in the DFAR and requests an opportunity for a hearing on this matter. Due to the impending 2014 election schedule, RPOC respectfully requests that any such hearing be held after the November 2014 general election.

RPOC notes that it agreed to list as a federal account debt the \$73,465 in Levin Fund disbursements noted in the DFAR, and will soon reduce or eliminate that debt with payments from the RPOC's federal funds. RPOC understands the Audit Division's and General Counsel's positions that as a political party committee, it is subject to the provisions of 2 USCA 441i(b)(2) and 11 CFR 300.31(a), RPOC further notes that:

- (1) There is no evidence whatsoever of circumvention by any donor to RPOC of the \$10,000 Levin Fund limits, the principal legal justification by Congress, accepted by the Supreme Court in *McConnell v. Federal Election Commission*, 530 U.S. 93, 171 (2003) for the Levin interparty transfer ban. Indeed, the DFAR at p. 10, fn. 6 and 8, notes that RPOC had raised little if any Levin funds other than the CRP payments for voter registrations;
- (2) The RPOC provided Republican voter registrations to the California Republican Party for "fair (equal) consideration" pursuant to the Operation Bounty voter registration agreement noted in the DFAR at pp. 10-11, not as a general transfer or subvention of RPOC's operating funds. RPOC finds it anomalous that a state party committee would be permitted to transfer Levin funds to a subordinate party

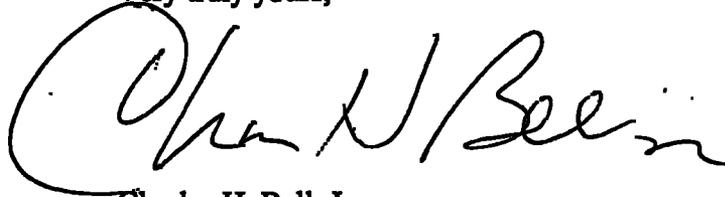
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committee but the subordinate party committee would be precluded from actually using the Levin funds for "Levin" purposes.<sup>1</sup>

- (3) RPOC notes that the Commission's apparent acceptance of the concept that a state party committee may allocate and pay FEA Type 1 expenses between its federal and Levin accounts under 11 CFR 102.6 (in April 2011) occurred long after the activity in question here. RPOC understood from CRP that the CRP had obtained informal authorization to make the payments in question to RPOC (among others), and did not receive any warning at the time from RAD that the use of such funds would be treated differently.

RPOC will ask the Commission to consider alternatives to enforcement action in light of the arguments made in its November 22, 2013 letter to the Audit Division and the foregoing information and comments.

Very truly yours,



Charles H. Bell, Jr.  
Counsel to RPOC (Federal)

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<sup>1</sup> The General Counsel's Analysis may have misunderstood RPOC's equal protection argument. The argument was premised on the different treatment accorded subordinate party committees that engage in FEA, Type 1 activity acting as vendors to state party committees, than accorded non-political party commercial vendors that provide voter registration services to state party committees.

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July 16, 2014

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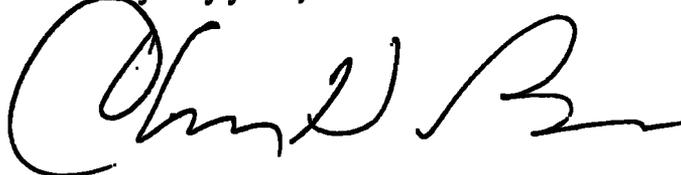
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Re: Draft Final Audit Report (DFAR) – Republican Party of Orange County (Federal)

Dear Mr. Smith:

This is to clarify the July 8, 2014 response to the Audit Division's DFAR at page 2 where we noted that RPOC "did not receive any warning at the time from RAD that the use of such funds would be treated differently" (referring to the CRP's informal advice at the time from the Commission. RPOC received RFAs from the Commission related to the Levin fund issue, which identified the Levin fund receipts and included a statement that the problem could be resolved by transfers-out. As RPOC's Form 99 submissions in response to the RFAs in September 2010 and January 2011 stated, RPOC believed the transfers were permissible. RPOC does not recall any further response from the Commission to the Form 99 responses it filed.

Very truly yours,



Charles H. Bell, Jr.  
Designated Counsel to RPOC (Federal)