

Republican Party of Orange County

November 22, 2013

Mr. Robert Morcomb
Federal Election Commission
Audit Division
Office of Compliance

Dear Mr Morcomb:

This letter is in response to the "Interim Audit Report of the Audit Division on the Republican Party of Orange County (Federal)" for the period of January 1, 2009 through December 31, 2010.

Below are the actions the Republican Party of Orange County ("RPOC") has taken with respect to each of the findings of the audit division.

Finding #1

RPOC has amended the reports for 2009 to address the items from the worksheet of the audit. Many of the items that we corrected were transfers between accounts and items that originally cancelled out each other. RPOC has tightened up their bank reconciliation process and will review reports to insure that items between accounts even if they cancel each other are being reflected on reports.

Finding #2

RPOC has tightened procedures for reporting accounts payable. Staff and board members have been informed that all obligations of the committee need to be reported to the treasurer at the time they are incurred. We have amended reports for 2008 and 2009 to include the debt and obligations for the vendors provided by the audit report.

Finding #3

For all future payroll, RPOC will maintain monthly payroll logs and document the percentage of time each employee spent on federal and non-federal election activity. RPOC will document the amount of hours spent on federal and non-federal election activity on a semi-monthly basis in a Microsoft excel spreadsheet log. This log will be used to determine the allocations of salaries, wages, and fringe benefits for all employees.

Finding #4

RPOC (also referred to as "Committee") has added the \$73465 amount of Levin funds in dispute as an accrued expense on Schedule D of the debts and obligations list on its monthly FEC 3X report for the month of October 2013 in an effort to respond in good faith to the proposed finding in the Commission Audit Division's Draft Audit Report.

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However, the Committee contends that the Commission should not accept Finding No. 4 and instead should not penalize the Committee. The RPOC is the Republican county central committee for the Republican Party in Orange County. The RPOC is a vendor to the California Republican Party (also referred to as "CRP") and its agent in conducting voter registration activities in Orange County. The RPOC has operated under the California Republican Party's "Operation Bounty" agreement by which RPOC obtains and is compensated by the California Republican Party on the basis of valid Republican voter registrations it obtains and which the California Republican Party verifies as valid voter registrations. This activity is conducted throughout each election cycle. For the 2010-2011 election cycle, this included registrations obtained outside the "FEA II period" as well as registrations obtained during the "FEA II period."

The RPOC received consideration in the form of payment per valid registration to defray its costs incurred in obtaining, processing, verifying and submitting the voter registrations to CRP through the "Operation Bounty" program. The "Operation Bounty" program is a bona fide party building program, which engages Republican volunteer groups and individual Republican activists in voter outreach, voter communication and spreading the Republican identification and brand in the community, including among a substantial number of new citizens, legal immigrants and ethnic minority groups with whom the Republican Party would like to extend and improve relations. Were the California Republican Party not to be able to utilize the RPOC as its agent and vendor, it would have to seek alternative (mostly commercial vendors other than local or district party committees), none of which offer the collateral party building benefits that the RPOC-California Republican Party relationship promotes.

Without the Operation Bounty reimbursement, the RPOC would be less likely and able to conduct effective voter registrations using the volunteer resources of Republican volunteer organizations, groups and activists. This would lessen the RPOC's ability to foster party building activities, as much as it would lessen the effectiveness of voter registration targeted at potential Republican voters among the aforementioned new citizens, legal immigrants and ethnic minority groups in Orange County.

For a period of time in 2011, the CRP was advised by the FEC's RAD unit that it would be required to pay for voter registrations submitted by RPOC under the "Operation Bounty" program with two checks, one from its federal account and one from its Levin account, pursuant to 11 CFR §102.6 and 11 CFR §300.33 for voter registrations obtained during the "FEA period." The Audit Report confirms that the CRP was within the statute and the regulations in doing so, but concludes that RPOC was unable to use those funds under the "home grown" requirement of 2 USCA § 441i(b)(2)(iv)(I) as "funds provided" by "any other State, local or district committee of any State party." See also, 11 CFR §300.31(a) ["General Rule. Levin funds expended or disbursed by any

State, local or district committee must be raised solely by the committee that expends or disburses them.”]

The committee contests whether the finding should be approved by the Commissioners on both statutory and constitutional grounds. The Committee notes that committee is not prohibited from using non-federal funds transferred by a State, local or district committee of a political party to reimburse the Committee’s federal account for a portion of expenses for voter registration conducted outside the Type II FEA period as set forth in Commission regulation 11 CFR §300.32 (b)(1)(i), nor is a State, local or district committee of a political party prohibited from paying vendors other than another State, local or district committee of a political party using Levin funds for voter registration activity during the Type II FEA period under 11 CFR §300.32 (b)(1)(i).

The Commission should allow the RPOC to accept and use Levin funds obtained in reimbursement under the “Operation Bounty” contract between the RPOC and the California Republican Party as a matter of contract and agency law. Alternatively, the Commission should not enforce 2 USCA §441i(b)(2)(iv)(I) against the RPOC because such enforcement would violate the equal protection clause of the Fourteenth Amendment to the United States Constitution by discriminating against a political party and its members for engaging in voter registration political activity using Levin funds received in connection with its contract with the California Republican Party that is not applied to other vendors that contract to engage in voter registration activity that is payable with Levin funds, without constitutional justification.

Thank you for your consideration regarding the foregoing issues. Please do not hesitate to contact me if you have any questions. Thank you.

Sincerely,



Mark Bucher
Treasurer