Interim Audit Report of the Audit Division on the State Democratic Executive Committee of Alabama (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. 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 the matter discussed in this report.

**About the Committee** (p. 2)
The State Democratic Executive Committee of Alabama is a state party committee headquartered in Montgomery, Alabama. For more information, see the chart on the Committee Organization, p. 2.

**Financial Activity** (p. 2)
- **Receipts**
  - Contributions from Individuals $342,232
  - Transfers from Affiliated Committees $413,892
  - Contributions from Other Political Committees $225,377
  - Transfers from Non-federal Accounts $316,171
  - All Other Receipts $173,243
  - Total Receipts $1,470,915

- **Disbursements**
  - Operating Expenditures $950,626
  - Federal Election Activity $456,345
  - All Other Disbursements $72,274
  - Total Disbursements $1,479,245

**Finding and Recommendation** (p. 3)
- Recordkeeping for Employees

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1 2 U.S.C. §438(b).
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(January 1, 2009 - December 31, 2010)
Table of Contents

Part I. Background
   Authority for Audit 1
   Scope of Audit 1
   Commission Guidance 1

Part II. Overview of Committee
   Committee Organization 2
   Overview of Financial Activity 2

Part III. Summary
   Finding and Recommendation 3

Part IV. Finding and Recommendation
   Recordkeeping for Employees 4
Part I
Background

Authority for Audit
This report is based on an audit of the State Democratic Executive Committee of Alabama (SDA), 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 disclosure of individual contributors' occupation and name of employer;
2. the disclosure of disbursements, debts and obligations;
3. the disclosure of expenses allocated between federal and non-federal accounts;
4. the consistency between reported figures and bank records;
5. the disclosure of independent expenditures;
6. the completeness of records; and
7. other committee operations necessary to the review.

Commission Guidance

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,” SDA requested early consideration of a legal question raised during the audit. SDA questioned whether the monthly time logs required under 11 C.F.R. §106.7(d)(1) applied to employees paid with 100 percent federal funds. (See Finding, page 4.)

The Commission concluded, by a vote of 5-1, that 11 C.F.R. §106.7(d)(1) does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, the Commission decided, however, that it would 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 SDA Counsel of the Commission's decision on SDA's request. This audit report does not include any finding or recommendation with respect to SDA's employees paid with 100 percent federal funds and reported as such.
Part II
Overview of Committee

Committee Organization

Important Dates

- Date of Registration: July 10, 1976
- Audit Coverage: January 1, 2009 - December 31, 2010

Headquarters

Montgomery, Alabama

Bank Information

- Bank Depositories: Two
- Bank Accounts: Three Federal, Two Non-federal, One Levin

Treasurer

- Treasurer When Audit Was Conducted: Mr. Edgar C. Gentle, III (1/31/11 - 7/8/12)
Mr. James B. Davidson (7/9/12 - 12/5/12)
Mr. James D. Turner (12/6/12 - Present)
- Treasurer During Period Covered by Audit: Mr. Brannon Walden (5/22/08 - 1/30/11)

Management Information

- Attended Commission Campaign Finance Seminar: Yes
- Who Handled Accounting and Recordkeeping Tasks: Paid Staff

Overview of Financial Activity
(Audited Amounts)

<table>
<thead>
<tr>
<th>Cash-on-hand @ January 1, 2009</th>
<th>$ 13,139</th>
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</thead>
<tbody>
<tr>
<td>Receipts</td>
<td></td>
</tr>
<tr>
<td>o Contributions from Individuals</td>
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</tr>
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<td>$ 1,479,245</td>
</tr>
<tr>
<td>Cash-on-hand @ December 31, 2010</td>
<td>$ 4,809</td>
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Part III
Summary

Finding and Recommendation

Recordkeeping for Employees
During audit fieldwork, the Audit staff determined that SDA did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to SDA employees totaling $279,429, for whom SDA was required to maintain monthly payroll logs. This consisted of $248,930, for which payroll was allocated between federal and non-federal funds, and $30,499, for which payroll was exclusively non-federal. Prior and subsequent to the exit conference, SDA representatives provided the Audit staff with affidavits for most of the employees attesting to the percentage of time spent on federal election activity. For the SDA employees paid with an allocation of federal and non-federal funds or exclusively non-federal funds, the Audit staff recommends that SDA 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.4.)
Part IV
Finding and Recommendation

Recordkeeping for Employees

Summary
During audit fieldwork, the Audit staff determined that SDA did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to SDA employees totaling $279,429, for whom SDA was required to maintain monthly payroll logs. This consisted of $248,930, for which payroll was allocated between federal and non-federal funds, and $30,499, for which payroll was exclusively non-federal. Prior and subsequent to the exit conference, SDA representatives provided the Audit staff with affidavits for most of the employees attesting to the percentage of time spent on federal election activity. For the SDA employees paid with an allocation of federal and non-federal funds or exclusively non-federal funds, the Audit staff recommends that SDA 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 are to be undertaken as follows:
• employees who spend 25% 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% 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. SDA did not maintain any monthly payroll logs or equivalent records to document the percentage of time its employees 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 employees. For 2009 and 2010, logs were required for $279,429 in payroll.²³ All of

² Payroll is stated net of taxes and benefits.
³ Payments to SDA employees paid with 100 percent federal funds and reported as such are not included in this finding. (See Background section, page 1 - Request for Early Commission Consideration of a Legal Question.)
these individuals were disclosed as having been paid with an allocation of federal and non-federal funds ($248,930) or exclusively non-federal funds ($30,499).

The Audit staff requested that SDA provide documentation to verify the time employees spent on federal election activity. In response, SDA provided signed affidavits for five of the 11 employees noted above. The affidavits stated the employee name, job title and responsibilities, the time period covered by the affidavit and the funding used. They also included a brief statement concerning the time spent on federal election activity.

B. Interim Audit Report & Audit Division Recommendation
The Audit staff discussed this matter again with SDA representatives at the exit conference. SDA did not provide the requested monthly time logs during the response period; SDA did, however, submit additional affidavits from three employees and another after the response period. Each of these affidavits stated the employee name, job title and responsibilities, the time period covered by the affidavit and the funding used, and included a brief statement regarding the time spent on federal election activity.

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

- evidence that it maintained monthly time logs to document how much time each employee spent on federal election activity; or
- a plan to maintain monthly payroll logs to track the percentage of time each employee spends on federal election activity.