

## Finding 2. Disclosure of Receipts

### Summary

During audit fieldwork, the Audit staff reviewed receipts to verify the accuracy of the information disclosed on SDFM's reports. The review indicated that SDFM did not correctly disclose contributions from individuals and political committees, totaling \$568,804 and \$39,000 respectively, on Schedule A (Itemized Receipts). In addition, the Audit staff determined that SDFM received a total of \$1,409,254 in net proceeds from joint fundraising activity from 22 joint fundraising committees. However, SDFM did not itemize or correctly disclose transfers and memo entries, totaling \$843,231, on Schedule A, as required. Finally, the Audit staff determined that SDFM received a total of \$9,400 in net proceeds through one conduit. The conduit was itemized on Line 12 (Transfers from Other Authorized Committees) instead of disclosed as a memo entry, and the original contributors, totaling \$9,400, were not itemized. In response to the Interim Audit Report recommendation, SDFM maintained its objection to the use of sampling to estimate or project errors. Additionally, SDFM filed amended reports for the 2020 election cycle; however, the amended reports did not materially correct the public record. SDFM's amended reports corrected most of the disclosure errors for the political committees, the joint fundraising activity, and the conduit. However, nearly all of the identified errors for contributions from individuals<sup>8</sup> remained inaccurately disclosed. In response to the Draft Final Audit Report, SDFM reiterated its objection to the use of sampling in this audit. SDFM objects to the Commission's placement of a report on the public record stating that it failed to correct 97% of the disclosure errors for contributions from individuals and that its disclosure errors remain materially incorrect. SDFM also stated that a significant portion of the joint fundraiser errors consist of "minor reporting errors that in no way materially impacted the public record or deprived anyone of information."

The Commission approved a finding that SDFM failed to correctly disclose receipts totaling \$945,418, representing the amount originally proposed less the sampling-based amount of \$524,417<sup>9</sup> (\$1,469,835 - \$524,417).<sup>10</sup>

### Legal Standard

- A. Itemization Required for Contributions from Individuals.** An authorized candidate committee must itemize any contribution from an individual if it exceeds \$200 per election cycle, either by itself or when combined with other contributions from the same contributor. 52 U.S.C. §30104(b)(3)(A). (Authorized)
- B. Election Cycle.** The election cycle begins on the first day following the date of the previous general election and ends on the date of the next general election. If contributions and expenditures are designated for another election cycle, then the election cycle begins when the first contribution is received or expenditure is made. 11 CFR §100.3(b).

<sup>8</sup> See chart, Disclosure Errors for Individuals, on page 13.

<sup>9</sup> See *supra* footnote 3.

<sup>10</sup> See *supra* footnote 4.

**C. 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 contributor's 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 (Unauthorized) election cycle-to-date (Authorized) total of all contributions from the same individual. 11 CFR §§100.12 and 104.3(a)(4) and 52 U.S.C. §30104(b)(3)(A).

**D. 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. 52 U.S.C. §30102(i).

**E. Definition of Best Efforts.** The treasurer and the committee will be considered to have used "best efforts" if the committee satisfied all of the following criteria:

- All written solicitations for contributions included:
  - A clear request for the contributor's full name, mailing address, occupation, and name of employer; and
  - The statement that such reporting is required by Federal law.
- Within 30 days after the 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 committee's records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).

**F. Itemization of Contributions from Joint Fundraising Efforts.** After the joint fundraising representative distributes the net proceeds, each participating political committee reports its share as a transfer-in from the joint fundraising representative and itemizes the transfer on a separate schedule A for that Line. Using the records received from the joint fundraising representative, a participating committee also must itemize its share of gross receipts as contributions from the original donors on a memo entry Schedule A to the extent required under 11 CFR §104.3(a).

When itemizing gross contributions, the participant must report the date of receipt as the day the joint fundraising representative received the contribution. 11 CFR §102.17(c)(3)(iii) and (c)(8)(i)(B).

## **Facts and Analysis**

**A. Disclosure of Receipts**

## 1. Facts

The Audit staff utilized sample testing and a review of other contributions not included in the sample population to identify contributions from individuals, totaling \$568,804, and political committees, totaling \$39,000, which were not correctly disclosed on Schedule A of SDFM's disclosure reports. These reporting errors consisted of the following.

Disclosure of Contributions - Testing Method	
Sample Projection Amount <sup>11</sup>	\$535,012
100% Review of High Dollar Contributions from Individuals	\$33,792
100% Review of Contributions from Political Committees	\$39,000
<b>Total Error Amount</b>	<b>\$607,804</b>

The types of errors discovered in the sample review include incorrect disclosure of receipt date, name, and/or disclosure without a partnership attribution.

Disclosure Errors for Individuals	
Type of Review	100%
Contributions Disclosed without Partnership Attribution	\$19,600
Contributions Disclosed with Incorrect Receipt Date	\$5,600
Contributions Disclosed with Incorrect Amount	\$5,592
Contributions Disclosed with Incorrect Name	\$3,000
<b>Total Error Amount</b>	<b>\$33,792</b>

Disclosure Errors for PACs <sup>12</sup>	
Type of Review	100%

<sup>11</sup> The sample error amount (\$535,012) was projected using a Monetary Unit Sample with a 95 percent confidence level. The sample estimate could be as low as \$273,748 or as high as \$970,100.

<sup>12</sup> This group of errors and their respective dollar value exceed total errors (\$39,000) because one contribution, totaling \$5,000, had multiple disclosure errors. Each contribution was only counted once, toward the total error amounts, even if there were multiple errors.

<b>Disclosure Errors for PACs<sup>12</sup></b>	
Contributions Disclosed without an Address	\$27,000
Contributions Disclosed with Incorrect Name	\$16,000
Contributions Disclosed with an Incorrect Election Designation	\$1,000
<b>Total Error Amount</b>	<b>\$39,000</b>

## **2. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed the disclosure errors at the exit conference and provided schedules detailing the incorrectly disclosed contributions. SDFM representatives inquired, and the Audit staff confirmed the method for determining date errors, and that contemporaneous documentation would be sufficient to show the date of the contribution receipt.

In response to the exit conference, SDFM stated that the date reported was correct for two contributions. The Audit staff accepted SDFM's explanation, and those contributions are not included in the error amounts within this finding. Additionally, SDFM representatives stated that they object to the use of sampling to project errors. The Audit staff reiterated that the use of statistical sampling has been approved by the Commission for use in Title 52 audits for over 30 years. Finally, SDFM indicated that it would amend its disclosure reports to correct the errors.

The Interim Audit Report recommended that SDFM amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission) to correctly disclose these contributions.

## **3. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, SDFM maintained its objection to the use of sampling to estimate or project errors. SDFM amended all of its disclosure reports for calendar years 2019 and 2020 to correct the disclosure of contributions, as detailed below. Furthermore, an SDFM representative stated their belief that several contributions noted by the Audit staff as being reported with an incorrect date "...involve immaterial discrepancies that have no impact on the public record." The Audit staff notes that committees are required to report the date of receipt of a contribution. In the case of these contributions, SDFM did not provide proof of a receipt date that differed from documentation provided. Therefore, the Audit staff maintained that these discrepancies should be corrected and SDFM should amend its disclosure reports.

Corrective Action Taken by SDFM – Disclosure of Receipts	
Incorrect Disclosures as of the Interim Audit Report	\$607,804
Reports Amended - 100% Review of High Dollar Contributions from Individuals – <i>Corrected</i>	\$19,600
Reports Amended - 100% Review of Contributions from Political Committees – <i>Corrected</i>	\$38,000
Amount of Incorrectly Disclosed Contributions – <i>Not Resolved</i>	\$550,204 <sup>13</sup>

The Audit staff concluded that incorrect disclosure of receipts, totaling \$550,204, remained unresolved.

#### 4. Draft Final Audit Report

The Draft Final Audit Report noted that SDFM maintained its objection to the use of sampling to estimate or project errors. The Draft Final Audit Report also noted that while SDFM amended all of its disclosure reported for calendar years 2019 and 2020 to correct the disclosure of contributions totaling \$57,600, the disclosure of contributions totaling \$550,204 was not corrected.

#### 5. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, SDFM reiterated its objection to the use of sampling in this audit. SDFM stated that it was able to address the errors found within the sample itself, which were provided by the Audit staff, however, it “does not understand how it is possible that it could have corrected the remaining *projected* errors that were not specifically identified.” SDFM noted that “as we understand it, no complete, itemized list of identified and confirmed incorrect disclosures actually exists,” and that “the total [projected error] figure may be incorrect by hundreds of thousands of dollars.” Accordingly, SDFM objected to the Commission’s placement of a report on the public record stating that it failed to correct 97% of the disclosure errors for contributions from individuals and that its disclosure errors remain materially incorrect. SDFM stated, “both assertions are deeply misleading and quite simply incorrect.” SDFM added that it “worked diligently to correct the actual, identified reporting errors that the Audit Division brought to its attention, and objects to being faulted for not correcting unspecified *projected* disclosure errors.”

The Audit staff maintained its position on the use of statistical sampling. However, it should be noted that, in this finding, SDFM did not correct the disclosure of any of the specific errors included in the sample projection and provided by the Audit staff to SDFM via spreadsheet during the February 25, 2022 exit conference. This

<sup>13</sup> \$607,804 - \$19,600 - \$38,000 = \$550,204. This amount includes contributions from individuals, totaling \$549,204, and contributions from political committees, totaling \$1,000.

contradicts SDFM's statement that it "worked diligently to correct the actual, identified reporting errors that the Audit Division brought to its attention". These contribution errors, along with all the other errors outlined in this report, were provided to SDFM more than 14 months ago.

## **B. Disclosure of Joint Fundraising Transfers and Memo Entries**

### **1. Facts**

During audit fieldwork, the Audit staff determined that SDFM received a total of \$1,409,254 in net proceeds from joint fundraising activity from 22 joint fundraising committees. However, SDFM did not itemize or correctly disclose transfers and memo entries, totaling \$843,231, on Schedules A (Itemized Receipts). These reporting errors consisted of the following:

<b>Disclosure Errors<sup>14</sup></b>	
Type of Review	100%
Transfers Disclosed on Schedule A – Missing Address	\$84,110
Transfers Disclosed on Schedule A – Incorrect Receipt Date	\$78,941
Transfers Disclosed on Schedule A – Incorrect Amount	\$111
Memo Entries Not Itemized	\$306,585
Memo Entries Disclosed on Schedule A - Incorrect Receipt Date	\$345,034
Memo Entries Disclosed on Schedule A – Apparent Duplicate Entries	\$22,250
Memo Entries Disclosed on Schedule A – Incorrect Address	\$5,100
Memo Entries Disclosed on Schedule A – Incorrect or Missing Name	\$3,200

<sup>14</sup> These groups of errors and their respective dollar value exceed total errors (\$843,231) because three contributions, totaling \$5,100, had multiple disclosure errors. Each contribution was only counted once toward the total error amount, even if there were multiple errors.

<b>Disclosure Errors<sup>14</sup></b>	
Memo Entries Disclosed on Schedule A – Incorrect Election Designation	\$2,400
Memo Entries Disclosed on Schedule A – Incorrect Aggregate Total	\$600
<b>Total Error Amount</b>	<b>\$843,231</b>

## 2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with SDFM representatives at the exit conference and provided schedules detailing the missing or incorrectly disclosed contributions. SDFM representatives did not directly comment on these errors in response to the exit conference.

The Interim Audit Report recommended that SDFM amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission) to correctly disclose the joint fundraising transfers and memo entries.

## 3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, SDFM amended all of its disclosure reports for calendar years 2019 and 2020 to correct the disclosure of transfers and memo entries, as detailed below.

<b>Corrective Action Taken by SDFM – Disclosure of Joint Fundraising Transfers and Memo Entries</b>	
Incorrect Disclosures as of the Interim Audit Report	\$843,231
Reports Amended – <i>Transfers Corrected</i>	\$163,162
Reports Amended – <i>Memo Entries Corrected</i>	\$669,132
Amount of Incorrect Disclosures Remaining – <i>Not Resolved</i>	\$10,937 <sup>15</sup>

The Audit staff concluded that the incorrect disclosure of joint fundraising transfers and memo entries, totaling \$10,937, remained unresolved.

<sup>15</sup> \$843,231 - \$163,162 - \$669,132 = \$10,937

#### **4. Draft Final Audit Report**

The Draft Final Audit Report noted that SDFM amended all of its disclosure reported for calendar years 2019 and 2020 to correct the disclosure of transfers and memo entries totaling \$832,294.

#### **5. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, SDFM stated that a significant portion of the error amount consists of “minor reporting errors that in no way materially impacted the public record or deprived anyone of information.” SDFM noted that it mistakenly reported the date of receipt as the date it received the transfer from the joint fundraising committee, rather than the date the contribution was received by the joint fundraising committee. SDFM characterized this as a “harmless error” as the “contributor’s identity and the contribution amount were reported on the public record as required.”

The Audit staff noted that 11 CFR §102.17(c)(3)(iii) and (c)(8)(i)(B) state a joint fundraising participant must report the date of receipt of a contribution received through a joint fundraising committee as the day the joint fundraising representative received the contribution.

### **C. Disclosure of Contribution from a Conduit**

#### **1. Facts**

During audit fieldwork, the Audit staff determined that SDFM received a total of \$9,400 in net proceeds through one conduit. The conduit was itemized on Line 12 (Transfers from Other Authorized Committees), however, the original contributors, totaling \$9,400, were not itemized. This resulted in a total of \$18,800 of incorrectly disclosed contributions. These reporting errors consisted of the following.

<b>Disclosure Errors</b>	
Type of Review	100%
Conduit Incorrectly Itemized on Line 12	\$9,400
Contributors Not Itemized	\$9,400
<b>Total Error Amount</b>	<b>\$18,800</b>

#### **2. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed this matter with SDFM representatives at the exit conference and provided schedules detailing the missing or incorrectly disclosed contributions. SDFM representatives did not directly comment on these errors in response to the exit conference.

The Interim Audit Report recommended that SDFM amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission) to itemize the required contributions and report the conduit as a memo entry.

### 3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, SDFM amended all of its disclosure reports for calendar years 2019 and 2020 to correct the disclosure of contributions from a conduit, as detailed below.

Corrective Action Taken by SDFM – Disclosure of Contribution from a Conduit	
Incorrect Disclosures as of the Interim Audit Report	\$18,800
Reports Amended – <i>Conduit Corrected</i>	\$9,400
Reports Amended – <i>Contributors Corrected</i>	\$6,600
Amount of Incorrectly Disclosed Contributions – <i>Not Resolved</i>	\$2,800 <sup>16</sup>

The Audit staff concluded that the incorrect disclosure of a \$2,800 contribution from one contributor remained unresolved.

### 4. Draft Final Audit Report

The Draft Final Audit Report noted that SDFM amended its disclosure reports for calendar years 2019 and 2020 and corrected \$16,000 of the errors.

### 5. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, SDFM did not provide additional comment on this section of the finding.

In summary, the Audit staff concluded that SDFM corrected 97% of the disclosure errors for political committees, 99% of disclosure errors for the joint fundraising activity, and 85% of the disclosure errors for the conduit. However, because SDFM did not correct 97% of the disclosure errors for contributions from individuals, totaling \$549,204, SDFM's disclosure errors remain materially incorrect.<sup>17</sup>

<sup>16</sup> \$18,800 - \$9,400 - \$6,600 = \$2,800.

<sup>17</sup> The Audit staff calculated the percentages of the corrected disclosure information by dividing the disclosure errors resolved by total disclosure errors for each disclosure category.

### **Commission Conclusion**

On August 30, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that SDFM failed to correctly disclose receipts totaling \$1,469,835.

The Commission discussed<sup>18</sup> the sample projection amount of \$524,417 as described above in Section A.1. The Commission did not approve, by the required four votes, the inclusion of this amount in the finding, as recommended by the Audit staff.

<b>Disclosure of Receipts – Summary of Amounts</b>	
Audit Division Recommendation Amount	\$1,469,835
Amount Not Approved by the Commission	\$524,417 <sup>19</sup>
Amount Approved by the Commission	\$945,418 <sup>20</sup>

The Commission approved a finding that SDFM failed to correctly disclose receipts totaling \$945,418 (\$1,469,835 - \$524,417).<sup>21</sup>

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<sup>18</sup> See *supra* footnote 3.

<sup>19</sup> See *supra* footnote 3.

<sup>20</sup> See *supra* footnote 4.

<sup>21</sup> See *supra* footnote 4.