



AUDIT REFERRAL # 16-01

March 1, 2016

16-01-0497
MEMORANDUM

To: Daniel A. Petalas
Acting General Counsel

Gregory R. Baker
Deputy General Counsel – Administration

Jeff S. Jordan
Assistant General Counsel

Through: Alec Palmer
Staff Director

From: Patricia C. Orrock
Chief Compliance Officer

**Patricia
Orrock**

Digitally signed by Patricia
Orrock
DN: c=US, o=U.S. Government,
ou=FEC, cn=Patricia Orrock
Date: 2016.03.01 10:50:38 -05'00'

Tom Hintermister
Assistant Staff Director
Audit Division

Digitally signed by Thomas Hintermister
DN: cn=Thomas Hintermister, ou=FEC, ou=Audit Division
Date: 2016.03.01 10:50:15 -05'00'

Douglas Kodish Douglas
Audit Manager Kodish

Digitally signed by Paula Nurthen
DN: cn=Paula Nurthen, ou=FEC, ou=Lead Auditor
Date: 2016.03.01 10:50:07 -05'00'

By: Paula Nurthen
Lead Auditor Paula Nurthen

Subject: Utah State Democratic Committee (A13-10)-
Referral Matters

On February 9, 2016, the Commission approved the Proposed Final Audit Report on the Utah State Democratic Committee. The report was released to the public on February 23, 2016. In accordance with the Materiality Thresholds for Unauthorized Committees, the Final Audit Report of the Commission includes findings that meet the criteria for referral to the Office of General Counsel.

Finding 1– Misstatement of Financial Activity: Amount in Violation (\$92,203¹ – Receipts); Calendar Year (2011)

Finding 2– Recordkeeping for Employees: Amount in Violation (\$62,135); Calendar Years (2011/2012).

All workpapers and related documentation are available for review in the Audit Division. Should you have any questions regarding these matters, please contact Paula Nurthen or Douglas Kodish at 694-1200.

Attachments: Finding 1– Misstatement of Financial Activity
Finding 2– Recordkeeping for Employees
Designation of Counsel

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WSDC amended their reports for its Fidelity investment account after the audit notification letter was sent. These amendments resulted in a reduction in the misstated amount of \$2,913 or a revised misstatement of \$89,290.

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of USDC's reported financial activity with its bank records found that, for 2011, USDC understated its opening cash by \$17,885 and overstated its receipts and ending cash by \$92,203 and \$74,545, respectively. For 2012, only the opening and ending cash were misstated. Opening cash was overstated by \$74,545 and ending cash was overstated by \$75,866. Subsequent to audit notification, USDC amended its reports, which materially corrected the opening cash for 2011.

In response to the Interim and Draft Final Audit Report recommendations, USDC stated that it disagreed with the dollar amount of the receipts misstatement, \$92,203, and requested that the finding be reduced by \$90,439, the amount of its over reported transfers.

The Commission approved a finding that USDC misstated its financial activity for the calendar year 2011 and its opening and ending cash balances for 2012.

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). 52 U.S.C. §30104(b)(1), (2), (3), (4) and (5).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reconciled USDC's reported financial activity with its bank records for the calendar years 2011 and 2012 and identified misstatements for 2011 in its opening cash balance, receipts and ending cash balance. The following chart outlines the discrepancies between USDC's disclosure reports and its bank records, and the succeeding paragraphs explain, to the extent possible, the reasons for the misstatements.

representatives and Counsel. Counsel stated that they would review the schedules and might seek Commission consideration regarding the inclusion of the parent account as a federal account. Subsequently, USDC filed a Request for Commission Consideration of a Legal Question; however, the matter was withdrawn after the Audit staff, in further consultation with the Office of General Counsel, decided not to include activity from the parent account as part of the misstatement finding, since USDC did not use the parent account to pay any of its expenses and it was not used as a Federal allocation account.³

The Interim Audit Report recommended that USDC file amended disclosure reports to correct the remaining overstatements of ending cash and receipts for 2011 and the misstated cash balances for 2012.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, USDC said it disagreed that receipts were overstated by \$92,203 and requested that this amount be reduced by \$90,439, the amount of over reported H3 transfers. USDC contended that if it had made electronic transfers (or written checks) from its holding account and deposited them into its Federal account, the funds would have been returned to its parent account by automatic transfers, so in effect, no transfers could have been made. Therefore, it recorded the transfers on its books and reported them as such.

The Audit staff maintained that USDC overstated the amount of transfers from its non-federal account and recommended that USDC amend its reports to reflect the amount of funds that were actually transferred between the accounts. Such an adjustment would be consistent with the reporting of other transfers between these accounts which USDC properly reported during the audit period.

D. Draft Final Audit Report

The Draft Final Audit Report restated the finding from the Interim Audit Report, that USDC over reported \$90,439 in H3 transfers to its federal account, and that it should amend its reports to reflect the amount of funds that were actually transferred.

E. Committee Response to the Draft Final Audit Report

USDC responded to the Draft Final Audit Report by reiterating its response to the Interim Audit Report, as described above, and requesting a reduction of the misstatement finding for the amount of the H3 transfers.

Commission Conclusion

On January 14, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a finding that USDC misstated its financial activity for calendar year 2011 and its opening and ending cash balances for 2012.

The Commission approved the Audit staff's recommendation.

³ The parent account is the subject of Finding 3- Improper Bank Account Structure.

Finding 2. Recordkeeping for Employees

Summary

For the period covered by the audit, USDC did not maintain monthly payroll logs for some of its payroll, as required, to document the percentage of time each employee spent in connection with a federal election. For 2011 and 2012, the Audit staff identified 42 payroll transactions totaling \$62,135, for which monthly payroll logs were missing or incomplete. This consisted entirely of payroll which was allocated between federal and non-federal funds. In response to the Interim Audit Report recommendation, USDC stated that it has procedures in place [that were implemented in 2012] to ensure that payroll logs are maintained to track the amount of time employees spent on federal activities. USDC did not provide any additional comments in response to the Draft Final Audit Report.

The Commission approved a finding that USDC failed to maintain monthly payroll logs to document the time employees spent on federal election activity, totaling \$62,135.

Legal Standard

Maintenance of Monthly Logs. 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 percent or less of their compensated time in a given month on federal election activities must be paid either from the federal account or have their pay 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 audit fieldwork, the Audit staff reviewed disbursements for payroll. USDC was required to maintain monthly logs or equivalent records to document the percentage of time each employee spent in connection with a federal election for \$358,530 in payroll. These logs are required to document the proper allocation of federal and non-federal funds used to pay employee salaries and wages. For some employee time records, USDC properly utilized a payroll log to record the time spent on federal election activity. However, some payroll logs were either missing or were not complete for payroll totaling

\$62,135.⁴ The total of \$62,135 consisted entirely of payroll reported on Schedules H4 and paid with an allocation of federal and non-federal funds.⁵

B. Interim Audit Report & Audit Division Recommendation

At the exit conference and during audit fieldwork, the Audit staff discussed the payroll recordkeeping issue with USDC representatives. The representatives noted that most of the missing records were for three individuals, one of whom is now deceased. The representatives stated that, starting in 2012, USDC adopted new employee policies and procedures that required all employees to sign timesheets that tracked the percentage of time spent on federal election activity. A sample of the new timesheet and a copy of the policies and procedures were provided to the Audit staff. The Audit staff found the planned changes sufficient for tracking the amount of time spent by USDC employees on federal election activity.

For USDC employees that were paid with an allocation of federal and non-federal funds for which payroll logs were missing or incomplete, the Interim Audit Report recommended that USDC:

- provide evidence that the missing or incomplete monthly time logs were maintained to document the percentage of time an employee spent in connection with a federal election; and
- continue to maintain payroll logs according to the policy provided to the Audit staff.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, USDC stated that it now has procedures in place to ensure that payroll logs are maintained to track the amount of time employees spent on federal activities. The Audit staff concluded that USDC did not maintain monthly logs for payroll totaling \$62,135.

D. Draft Final Audit Report

The Draft Final Audit Report reaffirmed the Audit staff's earlier conclusion that USDC had not maintained monthly payroll logs for \$62,135 in payroll.

E. Committee Response to the Draft Final Audit Report

USDC did not provide any additional comments in response to the Draft Final Audit Report.

⁴ This total does not include payroll for employees paid with 100 percent federal funds and reported as such (see Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question, Page 1). Payroll amounts are stated net of payroll taxes and benefits.

⁵ All payroll described in this finding, \$358,530, was required to be allocated between federal and non-federal activity.

Commission Conclusion

On January 14, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a finding that USDC failed to maintain monthly payroll logs to document the time employees spent on federal election activity, totaling \$62,135.

The Commission approved the Audit staff's recommendation.