



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

Via Electronic Mail Only

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December 22, 2023

John Elliott, Treasurer
Oklahoma Leadership Council
4031 N Lincoln Boulevard
Oklahoma City, OK 73105

RE: AR 23-07

Dear Mr. Elliott:

The Federal Election Commission (“Commission”) has ascertained information in the normal course of carrying out its supervisory responsibilities indicating that Oklahoma Leadership Council and you in your official capacity as treasurer (“Committee”), may have violated the Federal Election Campaign Act of 1971, as amended (the “Act”). Following an audit conducted by the Commission pursuant to 52 U.S.C. § 30111(b), the Committee has been referred by the Audit Division to the Commission’s Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109.¹ Specifically, the Committee has been referred for misstatement of financial activity-receipts in the amount of \$216,154; Calendar Year 2020; misstatement of financial activity-disbursements in the amount of \$226,564; Calendar Year 2020; increased financial activity-receipts in the amount of \$829,858; Calendar Years 2019 and 2020; increased financial activity-disbursements in the amount of \$1,077,630; Calendar Years 2019 and 2020; contributions from unregistered political organizations in the amount of \$16,981; Calendar Years 2019 and 2020; failure to itemize debts and obligations in the amount of \$230,595; Calendar Years 2019 and 2020; recordkeeping for communications in the amount of \$378,222; Calendar Years 2019 and 2020; recordkeeping for employees in the amount of \$25,031; Calendar Years 2019 and 2020; reporting of apparent independent expenditures-failure to report apparent independent expenditures in the amount of \$345,389; Calendar Year 2020; and reporting of apparent independent expenditures-failure to report 24/48 Hour Reports for independent expenditures in the amount of \$326,460; Calendar Year 2020. We have numbered this referral AR 23-07.

The Act affords you the opportunity to demonstrate in writing that no action should be taken against Oklahoma Leadership Council and you in your official capacity as treasurer in this matter. If you wish to file a response, you may submit any factual or legal materials that you believe are relevant to the Commission’s consideration of this matter. Where appropriate, statements should be submitted under oath by persons with relevant knowledge. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of

¹ Notification of this referral is being provided to you pursuant to the Commission’s Agency Procedure for Notice to Respondents in Non-Complaint Generated Matters, as published in the Federal Register on August 4, 2009 (74 Fed. Reg. 38,617).

receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and § 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies, including the Department of Justice.² While the matter remains open, it will remain confidential as set forth above. After the matter is closed, certain documents from the file will be made available to the public on the Commission's website. To learn more about the agency's disclosure policy, please see 81 Fed. Reg. 51, 702 (Aug. 2, 2026), <https://fec.gov/resources/cms-content/documents/notice2016-06.pdf>

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission. Please note that you have a legal obligation to preserve all documents, records, and materials relating to the subject matter of the complaint until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

Any correspondence sent to the Commission, such as a response, must be addressed to **one** of the following (note, if submitting via email this Office will provide an electronic receipt by email):

<u>U.S. Postal Service</u>	<u>Delivery Services</u>	<u>Email</u>
Federal Election Commission cela@fec.gov Office of Complaints Examination & Legal Administration Attn: Christal Dennis, Paralegal 1050 First Street, NE Washington, DC 20463	(<i>FedEx, UPS, DHL</i>) Federal Election Commission Office of Complaints Examination & Legal Administration Attn: Christal Dennis, Paralegal 1050 First Street, NE Washington, DC 20002	

As indicated in the FEC's Notice found at <https://www.fec.gov/resources/cms-content/documents/status-of-fec-operations.pdf>, the office's mailroom is open on a limited basis and, therefore, processing paper correspondence may be delayed. Accordingly, we strongly encourage you to file responses and additional correspondence via email.

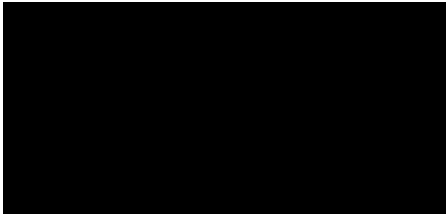
² The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

If you have any questions, please contact Christal Dennis at (202) 694-1519. For your information, we have enclosed a brief description of the Commission's procedures for processing possible violations discovered by the Commission.

Sincerely,

Wanda D. Brown

Wanda D. Brown
Assistant General Counsel
Complaints Examination &
Legal Administration



Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of OLC's most recent reported financial activity with its bank records revealed a misstatement of receipts and disbursements for calendar year 2020. Specifically, OLC understated receipts by \$216,154 and disbursements by \$226,564. OLC did not provide a response to the Interim Audit Report recommendation. In response to the Draft Final Audit Report, OLC stated that it did not dispute any of the facts presented and has taken all possible corrective actions. The Audit staff notes OLC did not file amended reports to correct the public record.

The Commission approved a finding that, in 2020, OLC understated its reported receipts and disbursements by \$216,154 and \$226,564, respectively.

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 OLC's most recent reported financial activity, filed prior to audit notification, with its bank records for calendar years 2019 and 2020. The reconciliation determined that OLC misstated receipts and disbursements for 2020. The following chart details the discrepancies between OLC's disclosure reports and its bank activity. The succeeding paragraphs explain why the discrepancies occurred.

2020 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash on hand @ January 1, 2020	\$15,546	\$15,098	(\$448) Overstated
Receipts	\$1,816,120	\$2,032,274	(\$216,154) Understated
Disbursements	\$1,738,013	\$1,964,577	(\$226,564) Understated
Ending Cash on hand @ December 31, 2020	\$93,653	\$82,795	(\$10,858) Overstated

The beginning cash on hand was overstated by \$448 and the discrepancy resulted from prior period discrepancies.

The understatement of receipts resulted from the following:

- Contributions from individuals not reported \$22,383
- Transfers from Non-federal account not reported 161,081

• Contributions from Political Committees not reported	28,344
• Other Receipts not reported	120
• Net Unitemized Contributions under reported	1,985
• Contribution under reported	10,000
• Contribution reported but did not clear bank	(750)
• Duplicate Contributions reported	(6,850)
• Unexplained differences	<u>(159)</u>
Net Understatement of Receipts	<u>\$216,154</u>

The understatement of disbursements resulted from the following:

• Disbursements not reported or reported incorrectly	\$225,008
• Disbursements reported, but did not clear bank	(2,151)
• Interaccount Transfer reported as disbursement	(100)
• Net Merchant Vendor Fees not reported correctly	3,776
• Disbursements reported with incorrect amounts	<u>31</u>
Net Understatement of Disbursements	<u>\$226,564</u>

The \$10,858 overstatement of the ending cash on hand was a result of the reporting discrepancies described above.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with OLC representatives during the exit conference and provided schedules detailing the misstatements of financial activity. The Audit staff explained each reporting error to the OLC representatives and answered a question regarding the dates of the reporting errors. In its response to the exit conference, OLC did not provide any comments on this finding, but generally stated that it would be filing amended reports in response to the audit.

The Interim Audit Report recommended that OLC amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)³ to correct the misstatements noted above. In addition, the Interim Audit Report recommended that OLC reconcile the cash on hand balance on its most recently filed report and correct any subsequent discrepancies.

C. Committee Response to Interim Audit Report

OLC did not provide a response to the Interim Audit Report recommendation. Absent the filing of amended reports or a Form 99 (Miscellaneous Electronic Submission), OLC's receipts and disbursements remained misstated.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that OLC did not respond to the Interim Audit Report recommendation, did not file amended reports or a Form 99, and that OLC's receipts and disbursements remained misstated.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, OLC provided a general statement regarding all of

³ OLC was advised by the Audit staff that if it chose to file a Form 99, instead of amending its disclosure reports, the form must contain all pertinent information that is required on each schedule.

the findings. OLC stated, “We have reviewed the draft final audit report and as we have previously stated we do not dispute any of the facts presented. As the health and the death of the Treasurer responsible for the transactions during the audit period does not change what resulted in that period we must accept what happened. We have made all corrective actions that we are able to do and await the final audit result.” The Audit staff notes OLC did not file amended reports to correct the public record.

Commission Conclusion

On November 13, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that, in 2020, OLC understated its reported receipts and disbursements by \$216,154 and \$226,564, respectively.

The Commission approved the Audit staff’s recommendation.

Finding 2. Increased Activity

Summary

A comparison of OLC's bank activity with its original reports filed with the Commission revealed that receipts were understated by \$829,858 and disbursements were understated by \$1,077,630 for calendar years 2019 and 2020. OLC did not provide a response to the Interim Audit Report recommendation. In response to the Draft Final Audit Report, OLC stated that it did not dispute any of the facts presented and has taken all possible corrective actions.

The Commission approved a finding that OLC understated its receipts and disbursements by \$829,858 and \$1,077,630, respectively, on the original reports filed, prior to audit notification, over the two-year reporting period ending December 31, 2020.

Legal Standard

A. Reporting Requirements. All political committees other than authorized committees of a candidate shall file either:

- Quarterly reports. 52 U.S.C. § 30104(a)(4)(A); or
- Monthly reports in all calendar years shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with 52 U.S.C. § 30104(2)(A)(i), a post-general election report shall be filed in accordance with 52 U.S.C. § 30104(2)(A)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year. 52 U.S.C. § 30104(a)(4)(B)

B. 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, in addition to examining OLC's most recent disclosure reports filed prior to audit notification, the Audit staff compared OLC's originally filed disclosure reports with its bank records. The purpose of this additional reconciliation was to identify the degree to which OLC misstated its original filings.

The Audit staff calculated that OLC understated its receipts by \$829,858 and disbursements by \$1,077,630 on the original reports filed over the two-year period ending December 31, 2020. Part of the understatements were due to OLC not reporting funds received from a joint fundraising committee totaling \$473,569 and the subsequent transfers of these funds (\$473,569) to the national party. In addition, these figures include the understatement of receipts \$216,154 and the understatement of disbursements \$226,564 discussed in Finding 1 (Misstatement of Financial Activity).

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with OLC representatives during the exit conference and provided the relevant schedule. In its response to the exit conference, OLC did not provide any comments on this finding, but generally stated that it would be filing amended reports in response to the audit.

The Interim Audit Report recommended that OLC provide any comments it deemed relevant with respect to this matter.

C. Committee Response to Interim Audit Report

OLC did not provide a response to the Interim Audit Report recommendation.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that OLC did not respond to the Interim Audit Report recommendation.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, OLC provided a general statement regarding all of the findings. OLC stated, "We have reviewed the draft final audit report and as we have previously stated we do not dispute any of the facts presented. As the health and the death of the Treasurer responsible for the transactions during the audit period does not change what resulted in that period we must accept what happened. We have made all corrective actions that we are able to do and await the final audit result."

Commission Conclusion

On November 13, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that OLC understated its receipts and disbursements by \$829,858 and \$1,077,630, respectively, on the original reports filed, prior to audit notification, over the two-year reporting period ending December 31, 2020.

The Commission approved the Audit staff's recommendation.

Finding 3. Contributions from Unregistered Political Organizations

Summary

During audit fieldwork, the Audit staff identified 15 contributions from unregistered political organizations, totaling \$16,981, that may have been made with impermissible funds. OLC did not provide a response to the Interim Audit Report recommendation. In response to the Draft Final Audit Report, OLC stated that it did not dispute any of the facts presented and has taken all possible corrective actions. The Audit staff notes OLC did not provide additional documentation.

The Commission approved a finding that OLC did not resolve contributions from unregistered political organizations, totaling \$16,981, by providing documentation demonstrating that these contributions were transferred to the non-federal account, refunded, or were received from permissible sources.

Legal Standard

- A. Party Committee Limits.** A party committee may not receive more than a total of \$10,000 per year from any one individual. 52 U.S.C §30116(a)(1)(D), 11 CFR §110.1(c)(5), and 11 CFR §110.9.
- B. Organizations Not Registered With the Commission.** Any organization that makes contributions and expenditures, but that does not qualify as a political committee under 11 CFR §100.5, must keep records of receipts and disbursements and, upon request, must make such records available for examination by the Commission. The organization must demonstrate through a reasonable accounting method that, whenever such an organization makes a contribution or expenditure, the organization has received sufficient funds subject to the limitations and prohibitions of the Act to make such contribution or expenditure. 11 CFR §102.5(b).
- C. Questionable Contributions.** It is the Treasurer's responsibility to ensure that all contributions are lawful. 11 CFR §103.3(b). If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:
1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow steps below). 11 CFR §103.3(b)(1).
 2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3 (b)(4).
 3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
 4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or

an oral explanation that is recorded by the committee in a memorandum.

11 CFR §103.3(b)(1).

5. Within these 30 days, the committee must either:
 - Confirm the legality of the contribution; or
 - Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff identified 15 contributions, totaling \$16,981, from unregistered political organizations, which OLC reported as follows:

- Two contributions, totaling \$1,310 on Schedule A, Line 11(a)(i) (Contributions from Individuals Itemized);
- Four contributions, totaling \$230, on Schedule A, Line 11(a)(ii) (Contributions from Individuals Unitemized);
- Four contributions, totaling \$2,292, on Schedule A, Line 11(c) (Contributions from Other Political Committees);
- One contribution, totaling \$1,306, on Schedule A, Line 17 (Other Receipts); and
- Four contributions, totaling \$11,843, that were not reported.

The Audit staff considers the receipts noted above to be contributions. OLC did not provide any documentation to demonstrate that these contributions, from unregistered political organizations, were made with permissible funds. Similarly, OLC did not submit any evidence to show that these receipts were not contributions. To date, none of these contributions have been refunded to the contributors.

The contributions from unregistered political organizations were made either from Oklahoma local party committees or from Oklahoma local candidate committees, and does not appear to be from state political action committees (state PACs). Under Oklahoma state law, political party committees are prohibited from accepting contributions from corporations, labor unions and foreign nationals.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with OLC representatives during the exit conference and provided a schedule of the receipts. The OLC representatives stated that ten days would not be enough time to respond to this finding. The Audit staff advised OLC of each additional opportunity in the audit process to respond to the finding. In its response to the exit conference, OLC did not provide any comments on this finding, but generally stated that it would be filing amended reports in response to the audit.

The Interim Audit Report recommended that OLC:

- Provide evidence that the 15 contributions in question totaling \$16,981 were made from permissible funds; or
- Provide evidence to show these items were not contributions; or
- Refund the impermissible funds and provide evidence of such refunds; or
- Transfer the impermissible funds to the non-federal account; or

- If funds were not available to make the necessary refunds or donations, disclose the contributions requiring refunds on Schedule D (Debts and Obligations) until funds become available to make such refunds.

C. Committee Response to Interim Audit Report

OLC did not provide a response to the Interim Audit Report recommendation. Absent additional documentation, the Audit staff maintained that OLC may have received impermissible funds from unregistered organizations.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that OLC did not respond to the Interim Audit Report recommendation and that OLC did not resolve contributions from unregistered political organizations, totaling \$16,981.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, OLC provided a general statement regarding all of the findings. OLC stated, “We have reviewed the draft final audit report and as we have previously stated we do not dispute any of the facts presented. As the health and the death of the Treasurer responsible for the transactions during the audit period does not change what resulted in that period we must accept what happened. We have made all corrective actions that we are able to do and await the final audit result.” The Audit staff notes OLC did not provide additional documentation.

Commission Conclusion

On November 13, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that OLC did not resolve contributions from unregistered political organizations, totaling \$16,981, by providing documentation demonstrating that these contributions were transferred to the non-federal account, refunded, or were received from permissible sources.

The Commission approved the Audit staff’s recommendation.

Finding 4. Reporting of Debts and Obligations

Summary

During audit fieldwork, the Audit staff noted that OLC failed to disclose debts and obligations to eight vendors totaling \$230,595. OLC did not provide a response to the Interim Audit Report recommendation. In response to the Draft Final Audit Report, OLC stated that it did not dispute any of the facts presented and has taken all possible corrective actions. The Audit staff notes OLC did not provide additional documentation and did not file amended reports to correct the public record.

The Commission approved a finding that OLC failed to disclose debts and obligations to vendors, totaling \$230,595.

Legal Standard

A. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished.

52 U.S.C. §30104(b)(8) and 11 CFR §§104.3(d) and 104.11(a).

B. Separate Schedules. A political committee must file separate schedules for debts owed by the committee and debts owed to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).

C. Itemizing Debts and Obligations.

- A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it on the next regularly scheduled report.
- A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed OLC's disbursement records and disclosure reports for proper reporting of debts and obligations. This review identified debts owed to eight vendors totaling \$230,595⁴ that OLC failed to report on Schedule D during the audit period. Based on a review of the records, these vendors provided media services, database services and cable and internet services. OLC reported debt totaling \$26,052 on Schedule D during the audit period.

The Audit staff calculated the debts owed to the vendors based on the invoice date and the subsequent payment date. Debts were outstanding for periods ranging from four days to 149 days.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with OLC representatives at the exit conference and provided a schedule detailing transactions requiring disclosure on Schedule D. The OLC

⁴ Each debt in this amount was counted only once, even if it was required to be disclosed over multiple periods.

representatives questioned why there were media expenditures on the schedule, stating that these expenditures are normally paid immediately. The Audit staff explained that the media expenditures were considered debts if the amounts exceeded \$500 and were not paid by the end of the report period in which they were incurred. In its response to the exit conference, OLC did not provide any comments on this finding, but generally stated that it would be filing amended reports in response to the audit.

The Interim Audit Report recommended that OLC provide additional documentation demonstrating that the transactions, totaling \$230,595, were not obligations which required reporting on Schedule D. Absent such documentation, the Interim Audit Report recommended that OLC amend its reports or file a Form 99 (Miscellaneous Electronic Submission)⁵ to correctly disclose these debts and obligations.

C. Committee Response to Interim Audit Report

OLC did not provide a response to the Interim Audit Report recommendation. Absent the filing of amended reports, a Form 99 (Miscellaneous Electronic Submission), or the provision of additional documentation, the public record pertaining to the disclosure of debts and obligations, has not been corrected.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that OLC did not respond to the Interim Audit Report recommendation and that OLC did not disclose debts and obligations, totaling \$230,595.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, OLC provided a general statement regarding all of the findings. OLC stated, “We have reviewed the draft final audit report and as we have previously stated we do not dispute any of the facts presented. As the health and the death of the Treasurer responsible for the transactions during the audit period does not change what resulted in that period we must accept what happened. We have made all corrective actions that we are able to do and await the final audit result.” The Audit staff notes OLC did not provide additional documentation and did not file amended reports to correct the public record.

Commission Conclusion

On November 13, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that OLC failed to disclose debts and obligations to vendors, totaling \$230,595.

The Commission approved the Audit staff’s recommendation.

⁵ See *supra* footnote 3.

Finding 5. Recordkeeping for Communications

Summary

During audit fieldwork, the Audit staff reviewed disbursements for communications to verify the accuracy of the information and proper classification of transactions disclosed on OLC's disclosure reports. Of these disbursements, OLC reported 35 disbursements, totaling \$378,222, on Schedules B (Itemized Disbursements), Line 21(b) (Other Federal Operating Expenditures) and Line 30(b) (Federal Election Activity Paid Entirely With Federal Funds) with purposes including, "Materials/Mail/Design-Non Candidate," "Printing & Design Services: Banner," "Voter Data Consulting," "Trump signs/signs," "GOTV Postcards," "Online Advertising," "Trump Products," "Billboard," "Pins for convention," "GOTV Text Messages" and "Direct Mail Printing & Postage." OLC did not provide a response to the Interim Audit Report recommendation. In response to the Draft Final Audit Report, OLC stated that it did not dispute any of the facts presented and has taken all possible corrective actions. The Audit staff notes OLC did not provide additional documentation.

The Commission approved a finding that OLC failed to maintain records in sufficient detail, to verify the proper reporting for communication disbursements, totaling \$378,222.

Legal Standard

- A. Formal Requirements Regarding Reports and Statements.** Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).
- B. Preserving Records and Copies of Reports.** The treasurer of a political committee must preserve all records and copies of reports for 3 years after the report is filed. 52 U.S.C. §30102(d).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursements for communications to verify the accuracy of the information and proper classification of transactions disclosed on the reports. Of these disbursements, OLC made 35 disbursements, totaling \$378,222, for which documentation was insufficient to make a determination pertaining to whether these disbursements were correctly reported on Schedule B, Line 21(b) and Schedule B, Line 30(b).

The Audit staff's analysis resulted in the following:

- i. Disbursements – No Invoices or Copies of Communications Provided (\$13,602)**
Seventeen disbursements totaling, \$13,602, were paid to nine vendors. Sixteen of these disbursements, totaling \$13,471, were disclosed on Schedule B, Line 21(b) with purposes of "Printing & Design Services: Banner," "Trump Signs," "Online Advertising," "Trump Products," "Billboard," "Trump Signs," and "Pins for Convention." One disbursement in the amount of \$131 was disclosed on Schedule B, Line 30(b) with the purpose of "Signs." No invoices or associated communications were provided for these disbursements. Without sufficient detail, the Audit staff is unable to verify OLC's

reporting of these amounts as other operating expenditures or federal election activity. The Audit staff requested copies of the invoices and the associated communications for each of the disbursements. To date, these invoices and communications have not been provided.

ii. **Disbursements – Invoices Provided – No Copies of Communications Provided (\$364,620)**

Eighteen disbursements totaling, \$364,620, were paid to seven vendors. Ten of these disbursements, totaling \$43,376, were disclosed on Schedule B, Line 21(b) with purposes of “Materials/Mail/Design-Non Candidate” and “Signs.” Eight disbursements, totaling \$321,244, were disclosed on Schedule B, Line 30(b) with purposes of “Voter Data Consulting,” “GOTV Postcards,” “Campaign Mailers,” “GOTV Text Messages” and “Direct Mail Printing & Postage.” For these disbursements, OLC provided invoices but did not provide information about the related communications. Without sufficient detail, the Audit staff is unable to verify OLC’s reporting of these amounts as other operating expenditures or federal election activity. The Audit staff requested copies of the associated communications. To date, these communications have not been provided.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with OLC representative during the exit conference and provided a schedule of the disbursements for which further records were necessary to verify the accuracy of OLC’s reporting. The OLC representatives stated the previous chairman did not keep the documentation; therefore, OLC would not be able to provide the documentation. In its response to the exit conference, OLC did not provide any comments on this finding, but generally stated that it would be filing amended reports in response to the audit.

The Interim Audit Report recommended that OLC provide, in sufficient detail, documentation that allows for verification of proper reporting for the communication disbursements totaling \$378,222. The documentation should have included copies of invoices, along with identification of the associated communication, and if the communication was previously provided, information associating each communication with an invoice(s).

C. Committee Response to Interim Audit Report

OLC did not provide a response to the Interim Audit Report recommendation. Absent documentation, the Audit staff maintained the disbursements could not be verified.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that OLC did not respond to the Interim Audit Report recommendation and that OLC did not maintain records to verify the proper reporting of communication disbursements, totaling \$378,222.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, OLC provided a general statement regarding all of the findings. OLC stated, “We have reviewed the draft final audit report and as we have previously stated we do not dispute any of the facts presented. As the health and the death of the Treasurer responsible for the transactions during the audit period does not change what resulted in that period we must accept what happened. We have made all corrective actions that we are able to do and await the final audit result.” The Audit staff notes OLC did not provide additional documentation.

Commission Conclusion

On November 13, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that OLC failed to maintain records in sufficient detail, to verify the proper reporting for communication disbursements, totaling \$378,222.

The Commission approved the Audit staff's recommendation.

Finding 6. Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that OLC did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent in connection with a federal election. For 2019 and 2020, the Audit staff identified 10 payments to OLC employees, totaling \$25,031, for which OLC did not maintain monthly payroll logs. This consisted of payroll which was allocated with federal and non-federal funds and payroll paid exclusively with non-federal funds. OLC did not provide a response to the Interim Audit Report recommendation. In response to the Draft Final Audit Report, OLC stated that it did not dispute any of the facts presented and has taken all possible corrective actions. The Audit staff notes OLC did not provide additional documentation.

The Commission approved a finding that OLC failed to maintain monthly payroll logs or equivalent records, totaling \$25,031, to document the percentage of time employees spent in connection with a federal election for years 2019 and 2020.

Legal Standard

A. 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 percent 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 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).

B. Formal Requirements Regarding Reports and Statements. Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursements for payroll. OLC did not maintain any monthly payroll logs or equivalent records to document the percentage of time each employee spent in connection with a federal election. These logs are required to document the proper allocation of federal and non-federal funds used to pay employee salaries and wages. For 2019 and 2020, OLC did not maintain monthly logs for \$25,031 in payroll.⁶ This amount consisted of:

⁶ This total does not include payroll for employees paid with 100 percent federal funds and reported as such. Payroll amounts are stated net of taxes and fringe benefits.

- Payroll, totaling \$22,676, for employees reported on Schedule H4 (Disbursements for Allocated Federal and Non-Federal Activity) and paid with an allocation of federal and non-federal funds during the same month; and
- Payroll, totaling \$2,355, for employees reported on Schedule B, Line 30(b) (Federal Election Activity Paid Entirely With Federal Funds) and also paid with 100 percent non-federal funds during the same month.⁷

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with OLC representatives during the exit conference and provided a schedule of the payroll transactions. In its response to the exit conference, OLC did not provide any comments on this finding, but generally stated that it would be filing amended reports in response to the audit.

The Interim Audit Report recommended that OLC provide evidence that monthly logs were maintained to document the percentage of time employees spent in connection with a federal election. Absent the provision of monthly logs specific to employees paid with 100% non-federal funds, OLC could have provided evidence that records consistent with 11 CFR §104.14(b)(1) were maintained to document that certain employees were involved in exclusively non-federal activities. Additionally, OLC should have provided and implement a plan to maintain monthly logs and other records consistent with 11 CFR §104.14(b)(1) in the future.

C. Committee Response to Interim Audit Report

OLC did not provide a response to the Interim Audit Report recommendation. Absent documentation, the Audit staff concluded OLC did not maintain monthly payroll logs as required to document the percentage of time each employee spent in connection with a federal election.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that OLC did not respond to the Interim Audit Report recommendation and that OLC did not maintain monthly payroll logs or equivalent records, totaling \$25,031.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, OLC provided a general statement regarding all of the findings. OLC stated, “We have reviewed the draft final audit report and as we have previously stated we do not dispute any of the facts presented. As the health and the death of the Treasurer responsible for the transactions during the audit period does not change what resulted in that period we must accept what happened. We have made all corrective actions that we are able to do and await the final audit result.” The Audit staff notes OLC did not provide additional documentation.

⁷ Employees who were paid with federal funds and non-federal funds in the same month.

Commission Conclusion

On November 13, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that OLC failed to maintain monthly payroll logs or equivalent records, totaling \$25,031, to document the percentage of time employees spent in connection with a federal election for years 2019 and 2020.

The Commission approved the Audit staff's recommendation.

Finding 7. Reporting of Apparent Independent Expenditures

Summary

During audit fieldwork, the Audit staff reviewed expenditures, totaling \$345,389, that OLC disclosed on Schedule B, Line 30(b) (Federal Election Activity Paid Entirely with Federal Funds). These expenditures appear to be independent expenditures containing express advocacy and should have been disclosed on Schedule E, Line 24 (Itemized Independent Expenditures). Of these expenditures, OLC did not properly disclose independent expenditures, totaling \$62,915, that were publicly disseminated prior to payment and therefore required reporting as memo entries on Schedule E and reporting as debt on Schedule D (Debts and Obligations).

Additionally, OLC did not provide documentation to support the dissemination dates, in order to verify whether 24/48-hour reports were required to be filed for the apparent independent expenditures totaling \$326,460.

OLC did not provide a response to the Interim Audit Report recommendation. In response to the Draft Final Audit Report, OLC stated that it did not dispute any of the facts presented and has taken all possible corrective actions. The Audit staff notes OLC did not provide additional documentation and did not file amended reports to correct the public record.

The Commission approved a finding that OLC failed to properly disclose apparent independent expenditures, totaling \$345,389, on Schedule E (Independent Expenditures), of which apparent independent expenditures, totaling \$62,915, should have been reported as memo entries and reported as corresponding debt on Schedule D (Debts and Obligations), based on the date in which the mail pieces were disseminated. In addition, the Commission approved a finding that OLC failed to file 24/48-hour reports for apparent independent expenditures, totaling \$326,460.

Legal Standard

A. Definition of Independent Expenditures. An independent expenditure is an expenditure made for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party or its agents.

A clearly identified candidate is one whose name, nickname, photograph or drawing appears, or whose identity is apparent through unambiguous reference, such as "your Congressman," or through an unambiguous reference to his or her status as a candidate, such as "the Democratic presidential nominee" or "Republican candidate for Senate in this state."

Expressly advocating means any communication that:

- Uses phrases such as "vote for the President" or "re-elect your Congressman" or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge election or defeat of one or more clearly identified candidates; or
- When taken as a whole and with limited references to external events, such as proximity to the election, could be interpreted by a reasonable person only as advocating the election or defeat of one or more clearly identified candidates. 11 CFR §§100.16(a), 100.17 and 100.22.

- B. Disclosure Requirements – General Guidelines.** An independent expenditure shall be reported on Schedule E if, when added to other independent expenditures made to the same payee during the same calendar year, it exceeds \$200. Independent expenditures made (i.e., publicly disseminated) prior to payment should be disclosed as memo entries on Schedule E and as a debt on Schedule D. Independent expenditures of \$200 or less need not be itemized, though the committee must report the total of those expenditures on Line 30(b) on Schedule E. 11 CFR §§104.3(b)(3)(vii), 104.4(a) and 104.11.
- C. Last-Minute Independent Expenditure Reports (24-Hour Reports).** Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20th day but more than 24 hours before the day of an election must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour report is required each time additional independent expenditures aggregate \$1,000 or more. The 24-hour report must be filed on a Schedule E. The date that a communication is publicly disseminated serves as the date that the Committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000. 11 CFR §§104.4(f) and 104.5(g)(2).
- D. Last-Minute Independent Expenditure Reports (48-Hour Reports).** Any independent expenditure aggregating \$10,000 or more for an election in any calendar year, up to and including the 20th day before an election, must disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more. The reports must be filed with the Commission within 48 hours after the expenditure is made. The 48-hour report must be filed on a Schedule E. The date that a communication is publicly disseminated serves as the date that the Committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$10,000. 11 CFR §§104.4(f) and 104.5(g)(1).
- E. Formal Requirements Regarding Reports and Statements.** Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).
- F. Allocation of Expenses between Candidates.** Expenditures made on behalf of more than one clearly identified federal candidate shall be attributed to each such candidate according to the benefit expected to be derived. In the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to all candidates. This method shall be used to allocate payments involving both clearly identified federal candidates and one or more clearly identified non-federal candidates. 11 CFR §106.1(a).

Facts and Analysis

A. Reporting of Apparent Independent Expenditures

1. Facts

During audit fieldwork, the Audit staff reviewed disbursements to ensure proper reporting. The Audit staff noted that OLC did not disclose any independent

expenditures on Schedule E, however, it made apparent independent expenditures, totaling \$345,389, and disclosed them on Schedule B, Line 30(b) (Federal Election Activity Paid Entirely with Federal Funds). These expenditures were for 20 direct mail pieces that contained express advocacy. A breakdown analysis for these expenditures is as follows:

a. Apparent Independent Expenditures Reported as Federal Election Activity (FEA) Paid Entirely with Federal Funds (Associated Mailer and Invoice Provided under 11 CFR §100.22(a))

OLC made disbursements for eighteen mail pieces, totaling \$314,380, for which it provided copies of the mail pieces with associated invoices, and wire transfer documentation. The mail pieces were disclosed as “Campaign Mailers” on OLC’s disclosure reports and contained the phrases such as: “Vote Stephanie Bice for Congress November 3rd,” “Vote Bice for Congress on Nov 3rd,” “Vote Early for Republican Stephanie Bice,” “Vote No on Kendra Horn Nov 3rd”, and “Oppose Kendra Horn November 3rd.” These communications contained language expressly advocating the election or defeat of a clearly identified candidate, as defined under 11 CFR §100.22(a).

Further, two of these communications, totaling \$47,455, were publicly disseminated prior to payment and therefore required reporting as memo entries on Schedule E when the communications were disseminated in addition to the reporting at the time of payment. This amount should also be reported as a corresponding debt on Schedule D (Debts and Obligations).

b. Apparent Independent Expenditures Reported as Federal Election Activity (FEA) Paid Entirely with Federal Funds (Associated Mailer and Invoice Provided under 11 CFR §100.22(b))

OLC made disbursements for two mail pieces, totaling \$31,009, for which it provided copies of the mail pieces with associated invoices and wire transfer documentation. The mail pieces were disclosed as “Campaign Mailers” on OLC’s disclosure reports and contained the phrases such as: “We Can’t Have Kendra Horn in Congress,” and “Kendra Horn Puts Party Over People.” Based on the definition of express advocacy under 11 CFR §100.22(b), the Audit staff believes that these mailers could only be interpreted by a reasonable person as advocating the election or defeat of a clearly identified candidate.

Further, one of these communications, totaling \$15,460, was publicly disseminated prior to payment and therefore required reporting as a memo entry on Schedule E when the communication was disseminated in addition to the reporting at the time of payment. This amount should also be reported as a corresponding debt on Schedule D (Debts and Obligations).

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with OLC representatives during the exit conference and provided a schedule detailing these expenditures. In its response to the exit conference, OLC did not provide any comments on this finding, but generally stated that it would be filing amended reports in response to the audit.

The Interim Audit Report recommended that OLC provide documentation that apparent independent expenditures, totaling \$345,389, did not require reporting as independent expenditures. Absent such documentation or evidence, the Interim Audit Report recommended OLC amend its reports to disclose these disbursements as independent expenditures on Schedule E (Itemized Independent Expenditures) and provide documentation to support the date of public dissemination for each communication to determine whether a 24/48-hour report was required to be filed. The Interim Audit Report also recommended that OLC amend its reports to include the reporting of independent expenditures, totaling \$62,915 (\$47,455 + \$15,460), as memo entries based on the date in which the mail pieces were disseminated. This amount should also be reported as corresponding debt on Schedule D.⁸

3. Committee Response to the Interim Audit Report

OLC did not provide a response to the Interim Audit Report recommendation. Absent documentation or filing of amended reports, the public record pertaining to the disclosure of apparent independent expenditures, has not been corrected.

4. Draft Final Audit Report

The Draft Final Audit Report acknowledged that OLC did not respond to the Interim Audit Report recommendation. The Draft Final Audit Report further acknowledged that OLC did not disclose apparent independent expenditures, totaling \$345,389, of which apparent independent expenditures, totaling \$62,915, should have been reported as memo entries and reported as corresponding debt on Schedule D (Debts and Obligations).

5. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, OLC provided a general statement regarding all of the findings. OLC stated, “We have reviewed the draft final audit report and as we have previously stated we do not dispute any of the facts presented. As the health and the death of the Treasurer responsible for the transactions during the audit period does not change what resulted in that period we must accept what happened. We have made all corrective actions that we are able to do and await the final audit result.” The Audit staff notes OLC did not provide additional documentation and did not file amended reports to correct the public record.

Commission Conclusion

On November 13, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that OLC failed to properly disclose apparent independent expenditures, totaling \$345,389, on Schedule E (Independent Expenditures), of which apparent independent expenditures, totaling \$62,915, should have been reported as memo entries and reported as corresponding debt on Schedule D (Debts and Obligations), based on the date in which the mail pieces were disseminated.

The Commission approved the Audit staff’s recommendation.

⁸ This amount is not included in Finding 4 (Reporting of Debts and Obligations).

B. Failure to File 24/48-Hour Reports for Apparent Independent Expenditures

1. Facts

In addition to not reporting the apparent independent expenditures during the audit period, OLC did not file any 24 or 48-hour reports.⁹ Of the \$345,389 in apparent independent expenditures reported as federal election activity,

- OLC failed to file 48-hour reports totaling \$182,168; and,
- OLC failed to file 24-hour reports totaling \$144,292.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with OLC representatives during the exit conference and presented a schedule detailing these expenditures. In its response to the exit conference, OLC did not provide any comments on this finding, but generally stated that it would be filing amended reports in response to the audit.

Absent documentation that the apparent independent expenditures, totaling \$345,389, did not require reporting as independent expenditures (per Part A above), the Interim Audit Report recommended that OLC provide documentation to support the date of public dissemination for each identified expenditure to determine whether 24/48-hour reports were required to be filed.

3. Committee Response to the Interim Audit Report

OLC did not provide a response to the Interim Audit Report recommendation. Absent documentation, the public record pertaining to the disclosure of 24/48-hour reports, has not been corrected.

4. Draft Final Audit Report

The Draft Final Audit Report acknowledged that OLC did not respond to the Interim Audit Report recommendation and that OLC did not file 24/48-hour reports for apparent independent expenditures, totaling \$326,460.

5. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, OLC provided a general statement regarding all of the findings. OLC stated, "We have reviewed the draft final audit report and as we have previously stated we do not dispute any of the facts presented. As the health and the death of the Treasurer responsible for the transactions during the audit period does not change what resulted in that period we must accept what happened. We have made all corrective actions that we are able to do and await the final audit result." The Audit staff notes OLC did not provide additional documentation.

⁹ The date the expenditure is publicly distributed serves as the date that the independent expenditure is made for purposes of the additional 24/48-hour report filing requirements. In the absence of a known date for public dissemination, the Audit staff used the invoice date of incurrence to determine if a 24/48-hour report was required.

Commission Conclusion

On November 13, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that OLC failed to file 24/48-hour reports for apparent independent expenditures, totaling \$326,460.

The Commission approved the Audit staff's recommendation.