

SANDLER REIFF

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November 2, 2021

Ms. Dayna C. Brown
Acting Assistant Staff Director
Audit Division
Federal Election Commission
1050 First Street, N.E.
Washington, D.C. 20463

Dear Ms. Brown:

This letter will serve as the response of the Democratic Party of Arkansas ("DPA") to the Interim Audit Report ("IAR") of the Federal Election Commission's Audit Division ("the Audit Division") for the period covering the DPA's financial activities for 2017 and 2018.

The response to each of the Audit Division's four findings is as follows:

Finding #1

The IAR's first finding relates to the failure to disclose certain debts by the DPA in 2017 and 2018. In response to these errors, the DPA has filed a Form 99 providing information relating to these debts as requested by the Audit Division. A copy of the Form 99 is attached to this letter as Exhibit A.

Finding #2

The IAR's second finding involved recordkeeping for payroll. In response to the Audit Division's inquiries regarding this issue, the DPA has instituted procedures to ensure that time records are maintained for all employees who are paid in part with non-federal funds. The DPA notes that the finding's inclusion of payroll records for those employees who are paid exclusively with non-federal funds are outside the scope of the Commission's jurisdiction and should not have been included in the finding. See e.g. Final Audit Report of the Commission on the Democratic Party of Wisconsin (2012 Cycle) at p.p. 13-16; Final Audit Report of the Commission on the Kentucky State Democratic Central Executive Committee (2012 Cycle), p. 9.; Final Audit Report of the Commission on the Utah Republican Party (2012) Cycle, p. 26-27.

Finding #3

The IAR's third finding involves the apparent failure to file 24/48 hour reports for transactions totaling \$22,802.50 that were made in connection with the general election on behalf of Clarke Tucker, the Democratic nominee for the United States House of Representatives in 2018 for the Second Congressional District. As a threshold matter, the DPA objects to the characterization of these expenditures as independent expenditures. These expenditures were properly made as exempt activities and were fully coordinated with the candidate. The activities fall into two categories. The DPA sent a volunteer exempt mailing through Resonance Campaigns at a cost of \$18,423.97. In addition, the DPA paid for printing in the amount of \$4,378.53 for printed materials that were distributed by hand by volunteers.

Attached as Exhibit B, please find a declaration from Karyn Coleman, who was at all times during the Fall of 2018, the Director of Operations for the DPA. In her role as Director of Operations for the DPA, Ms. Coleman would have direct knowledge of all DPA campaign activities. Ms. Coleman's declaration (which complies with the formatting requirements of 28 U.S.C. § 1746), confirms that both the mailings and printed materials were distributed through the substantial use of volunteers.

As part of the audit process, the DPA has provided a significant amount of documentation demonstrating the use of volunteers in connection with its volunteer exempt mailing activities. However, the DPA could not identify any documentation specifically related to this particular mailing. However, it is the DPA's contention and Ms. Coleman's recollection that this mailing had also complied with the Commission's requirements related to volunteer exempt mail. As the IAR acknowledges, there is considerable uncertainty of the amount of volunteer involvement required to satisfy the exemption and based upon the information provided to the Audit Division by the CDSCC, the Audit Division should consider this matter resolved.

With respect to the printed, it is our understanding that since these activities were not public communications, they cannot be considered coordinated communications and no further action would be necessary regarding these expenditures. It should be noted that it is quite uncommon for state party committees to create and maintain documentation relating to the volunteer component of such daily canvassing activities. They are much too voluminous and difficult for a state party to document. In addition, since such activities are not public communications, and cannot be considered coordinated communications, the need to create and maintain such documentation is unnecessary. As a general matter, in my experience, the Audit Division has never requested such documentation for or questioned such canvassing activities, and it is unclear why they are doing so in this instance. Notwithstanding, as attested by Ms. Coleman, the printed materials were distributed by volunteers.

Finding #4

The IAR's fourth finding relates to the incomplete and incorrect disclosure of certain loans and lines of credit received by the DPA's federal account during the Audit period. Attached as part of Exhibit A, the committee has provided the requested clarifying information in its Form 99 that has been filed in connection with the Commission Audit.

If you require any further information, or have any other questions, please call me at (202) 479-1111.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil Reiff". The signature is fluid and cursive, with the first name being more prominent than the last.

Neil Reiff
Counsel to the Democratic Party of Arkansas