



407 West Jefferson, Boise, Idaho 83702

June 13, 2022

Sent Via Email

Federal Election Commission
Audit Division
Rebecca Yarbrough
1050 First Street, NE
Washington, DC 20002

Re: Campaign Comment and Response to Interim Audit Report
Jim Risch for U.S. Senate
FEC No. C00440362

Dear Ms. Yarbrough,

Please accept this correspondence as the Jim Risch for U.S. Senate Committee's comments and response to the *Interim Audit Report* dated May 9, 2022.

First off, let me state that while an audit process is never something a campaign wants to endure, the audit staff was very professional and responsive during the whole process. Having never been audited or fined before, the campaign was unsure of what to expect. The audit team accommodated our questions and possessed the proper foundation to provide quick and substantive answers. As you may also be aware, the audit staff, Ms. Sheraline Thomas in particular, complimented the campaign on its openness and timely organized responses to all the Commission's requests. This being mostly a paper audit, I know the process was not easy for anyone involved.

It cannot be overstated that Senator Risch and myself as his Chief of Staff and Treasurer take this matter, and all matters related to campaign finance compliance, very seriously. From the outset, we assured the Commission that our records were open to them and we endeavored to provide more than what was requested to represent a whole picture to assist in the review process. We directed our two part-time semi-volunteer staff members to be at the Commission's disposal to answer any questions and to promptly provide any follow up documents requested.

As you can see from the Interim Report, the Campaign handled \$2,969,089 in receipts and processed \$1,825,393 in disbursements, all totaling \$4,794,482 worth of activity. While this amount of financial activity is not a staggering amount compared to most federal campaigns, it was a lot of work for our two-person part-time team who also manages the Senator's Leadership PAC. I feel it is important to note that the audit covered a very active time frame as the period reviewed was right in the middle of the campaign's busy 2020 reelection bid. The audit notes three findings but we believe overall that while there are areas in need of improvement, the Campaign did not substantially fail in its efforts to provide an

open and clear picture of its financial activity, indeed the audit only revealed a 2.2% margin of error in the misstatement of financial activity of the campaign.¹ As a result of the audit, the Campaign has already implemented changes in its processes and procedures to redouble implementation of best efforts which should ensure there are no future reporting inaccuracies.

As for a specific response to each category of the findings and recommendations, the Campaign provides the following comments:

Finding One: Misstatement of Financial Activity

The Interim Report states that a reconciliation of the Committee's accounts revealed that the 2019 beginning and ending cash on hand was understated by \$68,101 and \$56,935 respectively. The audit determined that these were a result of "prior period adjustments as well as non-material misstatements" during 2019. Despite being non-material, the Committee reviewed these discrepancies and has made the necessary adjustments to its bookkeeping and reporting records.

The Interim Report goes on to provide a summary table of the Committee's 2020 activity. As with the 2019 data, the Committee thoroughly reviewed the 2020 data. This data consisted of several spreadsheets provided by the Commission for the January 6, 2022 Exit Conference, specifically spreadsheets detailing by date and name all errors discovered.²

A review of the data from the Commission shows \$21,950 of contributions not reported and \$11,167 of disbursements not reported.

A. Contributions not Reported.

In reviewing the data, the Committee was able to determine that of the \$21,950 not reported, \$20,150 of these contributions were all tied to a single monthly spreadsheet that was not uploaded into the Committee's reporting software. The upload at issue consisted of the July 2020 data from the Committee's online fundraising program. Each month, the credit card donation data is received by the Committee from a vendor in the form of an electronic database file, that file is then uploaded into the Committee's reporting program. While the system has worked flawlessly for over several years, for some reason the upload in July of 2020 did not make it into the system to be reported.

The Committee does not offer this comment as an excuse, but rather an explanation that reveals 90% of the unreported data related to a single incident, not repeated failures. The Committee has implemented a new policy where all uploaded data is double checked to ensure it is properly reflected in the reporting system.

B. Disbursements not Reported.

Similar to the contribution issue noted above, \$10,000 of the \$11,167 in unreported distributions can be attributed to a single transaction, a transaction that the Committee was unaware was even considered a "distribution" and thus did not report. The transaction in question relates to the campaign's television buyer, a third-party vendor known as FP1. This vendor was buying TV airtime to place advertisements the campaign had already produced.

¹ \$109,548 is 2.2% of \$4,794,481.

² There are some minor reductions between the summary numbers from the Exit Conference spreadsheets and the summary numbers in the Interim Report. The Interim Report does not include or reference updated spreadsheets, so the Committee is unaware of which line items were removed.

As the election drew near, the vendor had to move quickly to buy airtime as needed. Typically, decisions were required to be implemented within a few hours' time. The TV ad buys are paid to the station in advance through wire transfers. The Campaign has to first wire funds to the buyer who then wires them to the station. As a result, five days prior to the election our TV buyer requested \$1,243.13 to make a TV last minute buy. The Committee decided to provide the buyer with \$10,000 in anticipation of other buys that might be made over the five days prior to the election. Since this money was not being used for anything and was just being held in reserve, the Committee considered it a deposit, not a reportable distribution. Moreover, to publically report almost \$10,000 in ad expenditures that were not made would have created the illusion to our opponents and the public that the campaign was expending more than it actually did. In the days immediately preceding an election, it is not uncommon for opposing campaigns to monitor television buys and respond to each other's purchases. Again, the Committee provides this information not as an excuse but to illustrate that 90% of the disbursement money not reported was related to a single transaction, and explain how the Committee viewed the transaction at the time.

The Committee now understands the Commission views this as a reportable disbursement and will assume any similar circumstances, albeit unlikely, are reported.

Finding Two: Receipt of Contributions in Excess of the Limit

The Interim Report cites \$74,400.00 in excessive receipts from 25 individuals.³ The audit concluded that these errors were due to the campaign not "forwarding presumptive redesignation or reattribution letters to its contributors or issuing refunds of the excessive portions of contributions in a timely manner." The majority of the transactions cited fall into the "presumptive" category and only four were "true" excessive contributions, all of which have now been refunded as recommended by the Commission in the Interim Report. In addition, presumptive letters have been sent to each individual identified by the Commission (See Exhibit A for copies).

Incidentally, there were two contributions identified by the Commission as excessive which were already discovered by the campaign within days of their receipt and immediately refunded, thus no violation occurred; evidence of those two transactions and the checks representing the timely refunds accompanies this correspondence as Exhibit B.

Finding Three: Failure to File 48 Hour Notices

The Interim Report cites 31 circumstances that it believes fell within the 48-hour notice and were not timely reported. 25 of the 31 are related to the primary election; an election which was uncontested. Of these 25 instances, 22 were determined to be non-compliant due to the fact the Commission determined that "on April 1, 2020 the Idaho Governor effectively changed the date of the May 19, 2020 Congressional primary" (see Page 10 of Interim Report). For the following reasons, the campaign respectfully disagrees with the Commission's conclusion that the election date was changed, and/or at the minimum, cites these factors as justification which leads to the conclusion that the campaign utilized best efforts in a confusing and unclear circumstance.

The rising COVID-19 situation in Idaho had caused some speculation about the logistics of Idaho's May 19, 2020 primary election. As a result on March 30, 2020 the Idaho Governor and the Idaho Secretary of state, issued a press release stating "There will be no change in Idaho's primary election date of May 19" (See attached Exhibit C). The press release went on

³ The data references came from the spreadsheets provided in relation to the Exit Conference in January.

to state that "Governor Little will issue a proclamation addressing the election in the coming days." The April 1, 2020 Proclamation, attached as Exhibit D, canceled in-person voting and stated several adjustments to the absentee voting election process but never outright changed the May 19, 2020 election date, in fact, the Proclamation referred to the election day several times as occurring on May 19, 2020. This Proclamation, especially combined with the preceding clear and unequivocal press release could lead to the logical conclusion that the reporting dates related to the election had also not changed. The campaign went on with its business as planned and filed the appropriate 48-hour Reports and its pre-primary report based off of a May 19, 2020 election date.

Reporting requirements were satisfied. Then on May 26, 2020, the campaign received its first communication from the Commission referencing the new primary election date. This communication is attached as Exhibit E. The Commission stated that based on the Governor's actions on April 1, 2020, the Commission believed the election date had been moved. In an attempt to comply with a confusing situation, the campaign began immediately filing 48-hour Reports. The campaign also filed a second pre-primary report as instructed by the Commission.

The Governor stated he did not move the election, the Commission interpreted his actions and concluded that he did move the election however, the Commission did not notify the campaign of its interpretation until May 26, 2020. The campaign believes it did the best it could do under these conflicting and confusing facts.

Conclusion

In conclusion, the campaign has complied with every recommendation stated in the Interim Report and has implemented procedures to reduce the possibility of future inaccuracies. A form 99 has been compiled and will be filed contemporaneously with this response. As has been the case from the outset of this audit, the campaign stands ready willing and able to answer any further questions, provide any further documents and amend any reports as requested. Should you have any questions regarding this response, please feel free to contact us. Sheraline Thomas has all of our contact information, including [REDACTED]

Very truly yours,

Sincerely,



R. John Insinger
Jim Risch for U.S. Senate
Campaign Treasurer

Cc: Sheraline Thomas via email

Paid for by Jim Risch for U.S. Senate Committee – www.SeantorRisch.com