

SANDLER REIFF

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August 31, 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 Kentucky State Democratic Central Executive Committee ("KSDCEC") to the Interim Audit Report ("IAR") of the Federal Election Commission's Audit Division ("the Audit Division") for the period covering the KSDCEC'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 misstatements of financial activity by the KSDCEC in 2017 and 2018. In response to these errors, the KSDCEC has filed a Form 99 outlining those errors and omissions 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 relates to the apparent receipt of excessive contributions totaling \$78,043. As a threshold matter, the KSDCEC disagrees with the Commission's legal basis for this finding. Each donor that made the contribution to the KSDCEC made their contribution with the full understanding that their contribution was to be split between the DSCEC's federal account and non-federal account. There is nothing in the Commission's regulations that directly address the process whereby a political party committee must notify a donor that their contribution is excessive and offer a refund in lieu of the splitting of their contribution. To be sure, the KSDCEC provides clear notice in its solicitation materials that contributions are subject to the prohibitions and limitations of the Act. In addition, any portion of a contribution that exceeded the federal limit was timely transferred by the KSDCEC from its federal account to its non-federal account. Nevertheless, the KSDCEC has provided written notice to each donor identified by the Audit

Division and sent the letters informing them that their contribution was split or attributed offering the option of a refund. In addition, for two donations, the KSDCEC informed the contributor that their contribution was attributed to a spouse. A full set of these letters is attached as Exhibit B. It should be noted that no donor has requested a refund or otherwise objected to the split of their contribution between the KSDCEC's federal and non-federal accounts.

Finding #3

The IAR's third finding involved recordkeeping for payroll. In response to the Audit Division's inquiries regarding this issue, the KSDCEC has instituted procedures to ensure that time records are maintained for all employees who are paid in part with non-federal funds

Finding #4

The IAR's fourth finding relates to the apparent excessive coordinated party expenditure related to mailings undertaken by the KSDCEC on behalf of a nominee for United States House of Representatives, Amy McGrath. In response to this finding please see the attached documentation found in Exhibit C. The documentation provides both sign in sheets, photographs, as well as declarations from both a volunteer who was present at the mailings, a party employee who coordinated the recruitment of volunteers, as well as a mail house employee who coordinated volunteer activity with the KSDCEC and was personally familiar with volunteer activity undertaken in connection with these mailings.

Please note that the attached declarations comply with the formatting requirements of 28 U.S.C. § 1746. Thus, the Commission cannot characterize them as "unsworn."

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 KSDCEC, the Audit Division should consider this matter resolved

Finding #5

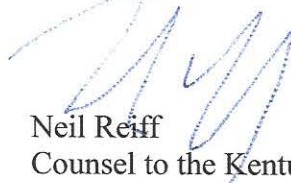
The IAR's fifth finding involves the apparent failure to file a 24 hour reports for a door hanger totaling \$14,105 that was disseminated by the KSDCEC on behalf of Amy McGrath. Although the KSDCEC mischaracterized this expense as a mailing activity on its reports, the door hangers were printed material that were disseminated by volunteers by manually placing them on the individual doors of voters.

As a threshold matter, during the fieldwork, the KSDCEC objected to the characterization of these expenditures as independent expenditures. These expenditures were properly made as exempt activities and were fully coordinated with its nominee. With respect to the door hanger, 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. Notwithstanding, it should be noted that the door hanger was distributed by volunteers. To that end, please see the attached declaration by KSDCEC Executive Director, Mary Nishimuta, that confirms that the door hangers were distributed by volunteers. 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, other than the error in reporting, it is unclear why they are doing so in this instance.

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', is written over a dotted line.

Neil Reiff
Counsel to the Kentucky State Democratic
Central Executive Committee