Final Audit Report of the Commission on the Republican Party of Minnesota - Federal

(January 1, 2017 - December 31, 2018)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.[1] The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

The Republican Party of Minnesota – Federal is a state party committee headquartered in Minneapolis, Minnesota. For more information, see the chart on the Committee Organization, p.2.

Financial Activity (p. 2)

Receipts	
○ Contributions from Individuals	$2,668,979
○ Contributions from Political Party and Other Political Committees	590,309
○ Transfers from Affiliates	568,580
○ Loans Received	383,040
○ Other Federal Receipts	712,648
○ Transfers from Non-Federal Account	513,974
Total Receipts	**$5,437,530**
Disbursements	
○ Operating Expenditures	$2,060,106
○ Allocated Federal/Non-Federal Expenditures	1,579,656
○ Loan Repayments	503,221
○ Refund of Contributions	5,385
○ Federal Election Activity	1,298,837
Total Disbursements	**$5,447,205**

Commission Findings (p. 4)

- Recordkeeping for Employees (Finding 1)
- Recordkeeping for Communications (Finding 2)
- Disclosure of Transfers and Allocation Ratios (Finding 3)
- Disclosure of Loans and Loan Repayments (Finding 4)

Additional Issues (p. 6)

- Reporting of Apparent Independent Expenditures (Issue 1)
- Excessive Coordinated Party Expenditures (Issue 2)

[1] 52 U.S.C. §30111(b).

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Part I
Background

Authority for Audit

This report is based on an audit of the Republican Party of Minnesota – Federal (RPOMF), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 52 U.S.C. §30111(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 52 U.S.C. §30111(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the receipt of loans;
2. the disclosure of individual contributors' occupation and name of employer;
3. the disclosure of disbursements, debts and obligations;
4. the disclosure of expenses allocated between federal and non-federal accounts;
5. the consistency between reported figures and bank records;
6. the completeness of records;
7. the disclosure of independent expenditures; and
8. other committee operations necessary to the review.

Commission Guidance

Request for Early Commission Consideration of a Legal Question

Pursuant to the Commission's "Policy Statement Establishing a Program for Requesting Consideration of Legal Questions by the Commission," several state party committees unaffiliated with RPOMF requested early consideration of a legal question raised during audits covering the 2010 election cycle. Specifically, the Commission addressed whether monthly time logs under 11 CFR §106.7(d)(1) were required for employees paid with 100 percent federal funds.

The Commission concluded, by a vote of 5-1, that 11 CFR §106.7(d)(1) does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, however, the Commission decided it will not pursue recordkeeping violations for the failure to keep time logs or to provide affidavits to account for employee salaries paid with 100 percent federal funds and reported as such. The Audit staff informed RPOMF representatives of the payroll requirement and the Commission's decision not to pursue recordkeeping violations for failure to keep payroll logs for salaries paid and correctly reported as 100 percent federal. This audit report does not include any findings or recommendations with respect to RPOMF employees paid with 100 percent federal funds and reported as such.

Audit Hearing

RPOMF declined the opportunity for a hearing before the Commission on the matters presented in this report.

Part II
Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	August 8, 1975
• Audit Coverage	January 1, 2017 – December 31, 2018
Headquarters	Minneapolis, MN
Bank Information	
• Bank Depositories	One
• Bank Accounts	One Federal; Two Non-Federal
Treasurer	
• Treasurer When Audit Was Conducted	Lee Prinkkila (10/14/2021 – present) Mark Blaxill (02/12/2021 – 10/13/2021) Bron Scherer (01/20/2012 – 02/11/2021)
• Treasurer During Period Covered by Audit	Bron Scherer
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity
(Audited Amounts)

Cash on hand @ January 1, 2017	**$ 12,718**
Receipts	
o Contributions from Individuals	2,668,979
o Contributions from Political Party and Other Political Committees	590,309
o Transfers from Affiliates	568,580
o Loans Received	383,040
o Other Federal Receipts	712,648
o Transfers from Non-federal Account	513,974
Total Receipts	**$5,437,530**
Disbursements	
o Operating Expenditures	2,060,106
o Allocated Federal/Non-federal Expenditures	1,579,656
o Loan Repayments	503,221
o Refund of Contributions	5,385
o Federal Election Activity	1,298,837
Total Disbursements	**$5,447,205**
Cash on hand @ December 31, 2018	**$ 3,043**

Part III
Summaries

Commission Findings

Finding 1. Recordkeeping for Employees

During audit fieldwork, the Audit staff determined that RPOMF 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 2017 and 2018, the Audit staff identified payments to RPOMF employees totaling $297,945 for which RPOMF 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. In response to the Interim Audit Report recommendation, RPOMF stated it "is in the process of implementing a payroll log which will document for each payroll period (currently bi-weekly) the major tasks/projects (in hours) performed by RP[O]M[F] employees spending time on both federal and/or non-federal (Minnesota Campaign Finance and Public Disclosure Board) activities." RPOMF provided no formal response to the Draft Final Audit Report. The Audit staff acknowledges RPOMF is in the process of implementing recommendations outlined within the Interim Audit Report for allocated federal and non-federal payroll.

The Commission approved a finding that RPOMF failed to maintain monthly payroll logs or equivalent records totaling $297,945 to document the percentage of time each employee spent in connection with a federal election for calendar years 2017 and 2018. (For more detail, see p. 8.)

Finding 2. Recordkeeping for Communications

During audit fieldwork, the Audit staff reviewed disbursements for communications to verify the accuracy of the information and proper classification of transactions disclosed on RPOMF's reports. RPOMF reported 76 disbursements totaling $706,981, on Schedule B (Itemized Disbursements), Line 21(b) (Other Federal Operating Expenditures); Schedule B, Line 30(b) (Federal Election Activity Paid Entirely with Federal Funds) and Schedule H4 (Disbursements for Allocated Federal /Non-Federal Activity) with purposes including, "direct mail," "direct mail advertising" or "party direct mail." Another four disbursements totaling $5,681 were from the Non-Federal account. Documentation provided by RPOMF was insufficient to make a determination pertaining to the purpose for these disbursements and verification as operating expenditures, federal election activity, non-federal activity or allocated federal/non-federal activity. In response to the Interim Audit Report recommendation, RPOMF stated it relied on third-party entities for production and dissemination of media, web advertisements, etc., and relied on affiliated committees for approval and production of media. RPOMF did not provide any new documentation. In addition, RPOMF provided no formal response to the Draft Final Audit Report. Absent additional documentation, the Audit staff concludes

RPOMF did not maintain, in sufficient detail, documentation that allows for verification of proper reporting for communication disbursements totaling $712,662.

The Commission approved a finding that RPOMF failed to maintain records in sufficient detail to verify the proper reporting for communication disbursements totaling $712,662. (For more detail, see p. 10.)

Finding 3. Disclosure of Transfers and Allocation Ratios

During audit fieldwork, the Audit staff identified two transfers to affiliated/other party committees totaling $64,303 reported on Schedule H4 (Disbursements for Allocated Federal/Non-Federal Activity). Party committee transfers do not qualify as allocable activity for disclosure on Schedule H4 but should instead be disclosed on Schedule B (Itemized Disbursements), Line 22 (Transfers to Affiliated/Other Party Committees). In addition, the Audit staff identified two fundraisers that were not reported on Schedule H2 (Allocation Ratios), and RPOMF incorrectly applied the allocation ratio for Administrative expenses on Schedule H4 for 30 disbursements related to these fundraisers totaling $73,129. In response to the Interim Audit Report recommendation, RPOMF filed Forms 99 (Miscellaneous Electronic Submission) correcting the public record regarding the party committee transfers and the two fundraisers. RPOMF provided no formal response to the Draft Final Audit Report.

The Commission approved a finding that RPOMF failed to correctly disclose transfers to affiliated/other party committees totaling $64,303. In addition, the Commission approved a finding that RPOMF failed to report allocation ratios on Schedule H2 (Allocation Ratios) for associated fundraising expenses and as a result, applied the incorrect allocation ratio for disbursements totaling $73,129.
(For more detail, see p. 13.)

Finding 4. Disclosure of Loans and Loan Repayments

During audit fieldwork, the Audit staff determined that RPOMF failed to properly disclose 50 transactions totaling $525,742. RPOMF did not properly disclose the correct purpose for interest payments and loan repayments on Schedule B (Itemized Disbursements), Line 21(b) (Federal Operating Expenditures) and Schedule B, Line 26 (Loan Repayments). RPOMF also disclosed the incorrect loan terms on Schedule C-1 (Loans and Line of Credit from Lending Institutions) and Schedule C (Loans). In response to the Interim Audit Report recommendation, RPOMF filed Forms 99 (Miscellaneous Electronic Submission) for each affected report. The Forms 99 correctly disclosed the loan terms that appear on Schedule C-1, the cumulative payment and the outstanding amount at the close of the period on Schedule C. However, none of the Forms 99 addressed the incorrect purposes disclosed for loan repayments and loan interest payments on Schedule B, Line 26 and Line 21(b), respectively. In addition, RPOMF provided no formal response to the Draft Final Audit Report. As such, the Audit staff concludes RPOMF did not materially correct the public record.

The Commission approved a finding that RPOMF failed to properly disclose the purpose and the terms of loans totaling $525,742 on Schedule B, Line 21(b) (Federal Operating

Expenditures), Schedule B, Line 26 (Loan Repayments), Schedule C-1 (Loans and Line of Credit from Lending Institutions) and Schedule C (Loans).
(For more detail, see p. 17.)

Additional Issues

Issue 1. Reporting of Apparent Independent Expenditures

During audit fieldwork, the Audit staff reviewed expenditures totaling $710,834, that RPOMF disclosed on Schedule B (Itemized Disbursements), Line 21(b) (Other Federal Operating Expenditures); Schedule B, Line 30(b) (Federal Election Activity Paid Entirely with Federal Funds) and Schedule H4 (Disbursements for Allocated Federal /Non-Federal Activity), that appear to be independent expenditures that contain express advocacy and should have been disclosed on Schedule E, Line 24 (Itemized Independent Expenditures).

For the $710,834 disclosed as operating expenditures, federal election activity, or allocated federal/non-federal activity which appear to be independent expenditures, RPOMF did not file 24/48-hour reports totaling $704,265.

Additionally, the Audit staff identified five disbursements totaling $101,665 that RPOMF invoices indicate were "volunteer driven," which were disclosed as federal election activity on Schedule B, Line 30(b) and operating expenditures on Schedule B, Line 21(b) and appear to be independent expenditures requiring disclosure on Schedule E. Furthermore, if the disbursements are determined to be independent expenditures, then RPOMF may have been required to file 24/48-hour reports for $61,565 of the $101,665 expenditures, depending on the date of public dissemination.

In response to the Interim Audit Report recommendation, RPOMF stated the expenditures referenced in this finding were all general party building fundraising for the general fund which referenced multiple candidates and did not advocate or oppose one single candidate. RPOMF did not provide any new documents, amend its disclosure reports to report the transactions on Schedule E or address the potential requirement to file 24/48-hour reports. In addition, RPOMF provided no formal response to the Draft Final Audit Report. Therefore, the Audit staff maintains RPOMF made apparent independent expenditures totaling $710,834 and did not correct the public record by amending the disclosure reports to include the transactions on Schedule E.

Regarding the five "volunteer driven" disbursements, RPOMF stated that the items were either general party fundraising, voter list purchase, a candidate reimbursement, a non-candidate printed fan or paid GOTV calls. There was no response regarding the requirement of filing of 24/48- hour reports. And RPOMF provided no formal response to the Draft Final Audit Report. Based on RPOMF's response, four of the five disbursements, totaling $101,590, appear to be independent expenditures requiring reporting on Schedule E and may have required the filing of 24/48-hour reports.

The Commission did not approve, by the required four votes, the Audit staff's recommendation that RPOMF failed to properly disclose apparent independent

expenditures totaling $710,834 on Schedule E (Independent Expenditures). In addition, the Commission did not approve, by the required four votes, the Audit staff's recommendation that RPOMF failed to provide documentation to support $101,590 was volunteer exempt activity and as a result, should be disclosed as independent expenditures on Schedule E. Finally, the Commission did not approve, by the required four votes, the Audit staff's recommendation that RPOMF failed to file 24/48-hour reports for apparent independent expenditures totaling $704,265 and failed to file 24/48-hour reports for disbursements without volunteer exempt documentation totaling $61,565. Pursuant to Commission Directive 70,[2] this matter is discussed in the "Additional Issues" section of this report.
(For more detail, see p. 21.)

Issue 2. Excessive Coordinated Party Expenditures

During audit fieldwork, the Audit staff identified apparent coordinated expenditures for three House candidates that exceeded the 2018 coordinated party expenditure limit by a total of $255,421. In response to the Interim Audit Report recommendation, RPOMF did not provide any new documentation. RPOMF stated that, "The media pieces referenced were non-allocable volunteer driven mail. It is the RP[O]M[F]'s understanding if there is a volunteer component, the expenditure does not count as a contribution to the candidate." RPOMF provided no formal response to the Draft Final Audit Report. Absent documentation to support the volunteer materials exemption, the Audit staff maintains RPOMF made apparent excessive coordinated expenditures totaling $255,421.

The Commission did not approve, by the required four votes, the Audit staff's recommendation that RPOMF made apparent excessive coordinated expenditures for three candidates totaling $255,421. Pursuant to Commission Directive 70,[2] this matter is discussed in the "Additional Issues" section of this report.
(For more detail, see p. 30.)

[2]Available at https://www.fec.gov/resources/cms-content/documents/directive_70.pdf

Part IV
Commission Findings

Finding 1. Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that RPOMF 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 2017 and 2018, the Audit staff identified payments to RPOMF employees totaling $297,945 for which RPOMF 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. In response to the Interim Audit Report recommendation, RPOMF stated it "is in the process of implementing a payroll log which will document for each payroll period (currently bi-weekly) the major tasks/projects (in hours) performed by RP[O]M[F] employees spending time on both federal and/or non-federal (Minnesota Campaign Finance and Public Disclosure Board) activities." RPOMF provided no formal response to the Draft Final Audit Report. The Audit staff acknowledges RPOMF is in the process of implementing recommendations outlined within the Interim Audit Report for allocated federal and non-federal payroll.

The Commission approved a finding that RPOMF failed to maintain monthly payroll logs or equivalent records totaling $297,945 to document the percentage of time each employee spent in connection with a federal election for calendar years 2017 and 2018.

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. RPOMF 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 2017 and 2018, RPOMF did not maintain monthly logs for $297,945 in payroll.[3] This amount included:

- Payroll totaling $290,060 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 $7,885 for employees paid exclusively with non-federal funds in a given month.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with RPOMF representatives during the exit conference and provided a schedule of the payroll transactions. RPOMF representatives responded that RPOMF will implement a payroll log which will document for each payroll period the major tasks/projects performed by RPOMF employees spending time on both federal and/or non-federal activities.

The Interim Audit Report recommended that absent the provision of monthly payroll logs, RPOMF implement a plan to maintain such monthly payroll logs in the future.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOMF stated that it "is in the process of implementing a payroll log which will document for each payroll period (currently bi-weekly) the major tasks/projects (in hours) performed by RP[O]M[F] employees spending time on both federal and/or non-federal (Minnesota Campaign Finance and Public Disclosure Board) activities." RPOMF said the job descriptions for the payroll in question "clearly state that such are involved principally in non-federal activities" and were reported as non-federal activities. The Audit staff concludes that RPOMF did not provide monthly payroll logs for the $297,945 in payroll, however, RPOMF complied with the Interim Audit Report recommendation by implementing a plan to maintain monthly payroll logs in the future.

The Audit staff maintains that RPOMF was required to maintain payroll logs for its employees paid with exclusively non-federal funds. Absent the provision of monthly logs specific to employees paid with exclusively non-federal funds, RPOMF may provide 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.

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

D. Draft Final Audit Report
The Draft Final Audit Report acknowledged that RPOMF did not maintain payroll logs for 2017 and 2018 but had implemented a process to record this information in conjunction with employees' timesheets.

E. Committee Response to the Draft Final Audit Report
RPOMF provided no formal response to the Draft Final Audit Report.

Commission Conclusion
On December 2, 2021, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to maintain monthly payroll logs or equivalent records totaling $297,945 to document the percentage of time each employee spent in connection with a federal election for calendar years 2017 and 2018. The Commission did not approve, by the required four votes, the Audit staff's recommendation.

On December 14, 2021, the Commission again considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to maintain monthly payroll logs or equivalent records totaling $297,945 to document the percentage of time each employee spent in connection with a federal election for calendar years 2017 and 2018.

The Commission approved the Audit staff's recommendation.

Finding 2. 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 RPOMF's reports. RPOMF reported 76 disbursements totaling $706,981, on Schedule B (Itemized Disbursements), Line 21(b) (Other Federal Operating Expenditures); Schedule B, Line 30(b) (Federal Election Activity Paid Entirely with Federal Funds) and Schedule H4 (Disbursements for Allocated Federal /Nonfederal Activity) with purposes including, "direct mail," "direct mail advertising" or "party direct mail." Another four disbursements totaling $5,681 were from the non-federal account. Documentation provided by RPOMF was insufficient to make a determination pertaining to the purpose for these disbursements and verification as operating expenditures, federal election activity, non-federal activity or allocated federal/non-federal activity. In response to the Interim Audit Report recommendation, RPOMF stated it relied on third-party entities for production and dissemination of media, web advertisements, etc., and relied on affiliated committees for approval and production of media. RPOMF did not provide any new documentation. In addition, RPOMF provided no formal response to the Draft Final Audit Report. Absent additional documentation, the Audit staff concludes RPOMF did not maintain, in sufficient detail, documentation that allows for verification of proper reporting for communication disbursements totaling $712,662.

The Commission approved a finding that RPOMF failed to maintain records in sufficient detail to verify the proper reporting for communication disbursements totaling $712,662.

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. RPOMF made 76 disbursements totaling $706,981 for which documentation was insufficient to make a determination pertaining to whether these disbursements were correctly reported on Schedule B, Line 21(b); Schedule B, Line 30 (b) and Schedule H4. Another four disbursements totaling $5,681 disclosed from the non-federal account had insufficient documentation to make a determination whether the disbursements were for non-federal activity, for a total of $712,662.[4]

The Audit staff's analysis resulted in the following:

i. <u>Disbursements - No Invoices or Copies of Communications Provided ($40,240)</u>

Disbursements totaling $40,240 were paid to three vendors and were disclosed on Schedule B, Lines 21(b) and 30(b) with purposes such as "direct mail," "direct mail advertising" and "party direct mail," but no invoices or associated communications were provided. Without sufficient detail, the Audit staff was unable to verify RPOMF's reporting of these amounts as operating expenditures or federal election activity. The Audit staff requested copies of the invoices and the associated direct mail pieces for each of the disbursements. To date, these invoices or other information to associate the payments to a particular communication were not provided.

ii. <u>Disbursements - Invoices Provided – No Copies of Communications Provided ($672,422)</u>

Disbursements totaling $666,741 were paid to 10 vendors and were disclosed on Schedule B, Lines 21(b) and 30(b) and Schedule H4 with purposes such as "direct

[4] $712,662 = $706,981 Federal Disbursements + $5,681 Non-Federal Disbursements

mail," "direct mail advertising" and "party direct mail." In addition, disbursements totaling $5,681 were paid from the non-federal account with wording on the invoices such as "phone bank," "county fair endorsed candidates' graphic" and "plastic signs." For these disbursements, RPOMF provided invoices but did not provide information about the related communications. Without sufficient detail, the Audit staff was unable to verify RPOMF's reporting of these amounts as operating expenditures, federal election activity, non-federal activity or allocated federal/non-federal activity. The Audit staff requested copies of the associated media pieces, mailers and scripts for each of the disbursements. To date, these communications were not provided.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with RPOMF representatives during the exit conference and provided a schedule of the disbursements for which further records were necessary to verify the accuracy of RPOMF's reporting. In response to the exit conference, RPOMF representatives stated RPOMF relied on affiliated committees for the approval and production of some of the communication pieces and relied on third-party entities for the production and dissemination of communication pieces. However, the third-party entities were not able to provide all of the requested missing media documentation. RPOMF provided some additional communication pieces, which were not a part of the finding amount.

The Interim Audit Report recommended that RPOMF provide, in sufficient detail, documentation that allowed for verification of proper reporting for the communication disbursements totaling $712,662.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOMF reiterated its previous response that it relied on affiliated committees for the approval and production of some of the communication pieces and relied on third- party entities for the production and dissemination of communication pieces. RPOMF stated the third-party entities were not able to provide all of the requested missing media documentation. RPOMF further stated that, "it located many of the missing media pieces" and submitted them to the Audit staff previously. The Audit staff acknowledges the prior submissions and notes that they are not included in this finding. In response to the Interim Audit Report, RPOMF did not provide any new documentation. As such, the Audit staff concludes RPOMF did not maintain, in sufficient detail, documentation that allows for verification of proper reporting for communication disbursements totaling $712,662.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that RPOMF did not provide any additional comments with respect to this matter. As such, the Audit staff concludes RPOMF did not maintain, in sufficient detail, documentation that allows for verification of proper reporting for communication disbursements totaling $712,662.

E. Committee Response to the Draft Final Audit Report
RPOMF provided no formal response to the Draft Final Audit Report.

Commission Conclusion
On December 2, 2021, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to maintain records in sufficient detail to verify the proper reporting for communication disbursements totaling $712,662. The Commission did not approve, by the required four votes, the Audit staff's recommendation.

On December 14, 2021, the Commission again considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to maintain records in sufficient detail to verify the proper reporting for communication disbursements totaling $712,662.

The Commission approved the Audit staff's recommendation.

Finding 3. Disclosure of Transfers and Allocation Ratios

Summary
During audit fieldwork, the Audit staff identified two transfers to affiliated/other party committees totaling $64,303 reported on Schedule H4 (Disbursements for Allocated Federal/Non-Federal Activity). Party committee transfers do not qualify as allocable activity for disclosure on Schedule H4 but should instead be disclosed on Schedule B (Itemized Disbursements), Line 22 (Transfers to Affiliated/Other Party Committees). In addition, the Audit staff identified two fundraisers that were not reported on Schedule H2 (Allocation Ratios), and RPOMF incorrectly applied the allocation ratio for Administrative expenses on Schedule H4 for 30 disbursements related to these fundraisers totaling $73,129. In response to the Interim Audit Report recommendation, RPOMF filed Forms 99 (Miscellaneous Electronic Submission) correcting the public record regarding the party committee transfers and the two fundraisers. RPOMF provided no formal response to the Draft Final Audit Report.

The Commission approved a finding that RPOMF failed to correctly disclose transfers to affiliated/other party committees totaling $64,303. In addition, the Commission approved a finding that RPOMF failed to report allocation ratios on Schedule H2 (Allocation Ratios) for associated fundraising expenses and as a result, applied the incorrect allocation ratio for disbursements totaling $73,129.

Legal Standard
A. Transfers. All disbursements, contributions, expenditures, and transfers by the committee in connection with any Federal election shall be made from its Federal account. 11 CFR §102.5(a)(1)(i).

B. Allocation Ratio for Shared Fundraising Expenses. If a committee raises both federal and non-federal funds through the same fundraising program or event, it must

allocate the direct cost of the fundraising event based upon the ratio of funds received by the federal account to the total amount raised for the event. 11 CFR §106.7(d)(4).

C. Reporting of Allocation of Direct Cost for Shared Fundraising. In each report disclosing a disbursement for the direct costs of a fundraising program, the committee shall:

- Assign a unique identifying title or code to each such program or activity,
- State the allocation ratio calculated for the program or activity according to 11 CFR 106.6(d), and
- Explain the manner in which the ratio was derived.
- The committee shall also summarize the total amounts spent by the Federal and non-Federal accounts that year, to date, for each such program or activity. 11 CFR §104.10(b)(2).

D. Reporting of Allocations of Shared Expenses. When disclosing an allocable disbursement, a State, district, or local committee shall

- State and explain the allocation percentages to be applied to each category of allocable activity;
- State the category of activity for which each allocated disbursement was made in each subsequent report in the calendar year itemizing an allocated disbursement; and
- Summarize the total amounts expended from Federal and Non-Federal accounts, or from allocation accounts, that year to date for each such category. 11 CFR §104.17(b)(1)(i) and (ii).

Facts and Analysis

A. Disclosure of Transfers

1. Facts

During audit fieldwork, the Audit staff reviewed transfers to affiliated/other party committees and identified two transfers totaling $64,303 reported on Schedule H4. One transfer totaling $16,072 was to the Republican National Committee, and the second transfer totaling $48,231 was to the Missouri Republican State Committee-Federal. Transfers to affiliated/other party committees do not qualify as allocable activity for disclosure on Schedule H4 but should instead be disclosed on Schedule B, Line 22. Based on a review of all allocable activity and amounts transferred from the non-federal account, it was determined that RPOMF did not make an overpayment from the non-federal account for its share of allocable expenses.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with RPOMF representatives during the exit conference and provided a schedule of the incorrectly disclosed transfers. In response to the exit conference, RPOMF representatives acknowledged that the two transfers referenced did not qualify as allocable activity, were disclosed incorrectly on the wrong schedule, and provided a draft Form 99 (Miscellaneous Electronic

Submission). As of the date of the Interim Audit Report, RPOMF had not formally filed a Form 99 with the Commission.

The Interim Audit Report recommended that RPOMF amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)[5] to correctly disclose the transfers to affiliated/other party committees on Schedule B, Line 22.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOMF filed a Form 99 acknowledging the party committee transfers should not have been reported on Schedule H4 and instead should have been disclosed on Schedule B, Line 22. The Audit staff acknowledges RPOMF complied with the Interim Audit Report recommendation by filing a Form 99 disclosing all the necessary information.

4. Draft Final Audit Report

The Draft Final Audit Report acknowledged that RPOMF corrected the public record.

5. Committee Response to the Draft Final Audit Report

RPOMF provided no formal response to the Draft Final Audit Report.

Commission Conclusion

On December 2, 2021, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to correctly disclose transfers to affiliated/other party committees totaling $64,303. The Commission did not approve, by the required four votes, the Audit staff's recommendation.

On December 14, 2021, the Commission again considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to correctly disclose transfers to affiliated/other party committees totaling $64,303.

The Commission approved the Audit staff's recommendation.

B. Disclosure of Allocation Ratios

1. Facts

The Audit staff reviewed allocable disbursements and identified two fundraising events that raised funds for RPOMF's federal and non-federal accounts. These fundraising events were not reported on Schedule H2 and had associated expenses disclosed on Schedule H4.

[5] RPOMF 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 Audit staff applied the "funds received"[6] method to determine the allocation ratio for the direct costs of each fundraiser. Based on the funds received method, RPOMF applied the incorrect allocation ratio for 30 disbursements totaling $73,129. For these disbursements, RPOMF applied the Administrative allocation ratio instead of the correct fundraising event ratio.

Based on a review of all allocable activity and amounts transferred from the non-federal account, it was determined that RPOMF did not make an overpayment from the non-federal account for its share of allocable expenses. However, RPOMF should amend its reports to correct the disclosure of these allocation ratios.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with RPOMF representatives during the exit conference and provided a schedule of the fundraiser allocation ratios not reported on Schedule H2 and the fundraising related disbursements incorrectly allocated on Schedule H4. In response to the exit conference, RPOMF representatives acknowledged that the two fundraisers should have been disclosed on Schedule H2 using the funds raised method of allocation. RPOMF provided a draft Form 99 and a draft Schedule H2 for the Audit staff's review. In addition, RPOMF representatives acknowledged that the fundraising expenses were incorrectly reported on Schedule H4 by using the Administration allocation ratio instead of the fundraising allocation ratio. RPOMF provided draft Forms 99. As of the date of the Interim Audit Report, RPOMF had not formally filed the Forms 99 with the Commission.

The Interim Audit Report recommended that RPOMF amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)[7] to correctly disclose the fundraising events on Schedule H2 and correctly disclose the allocable fundraising expenses on Schedule H4.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOMF filed a Form 99 acknowledging disclosures for fundraising costs were incorrectly allocated as administrative expenses on Schedule H4. The Form 99 narrative included the proper allocation ratios for costs resulting from fundraisers in 2017 and 2018. RPOMF also filed an amended Schedule H2 disclosing the two fundraising events. The Audit staff acknowledges RPOMF complied with the Interim Audit Report recommendation by filing a Form 99 disclosing all the necessary information.

4. Draft Final Audit Report

The Draft Final Audit Report acknowledged that RPOMF corrected the public record.

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[6] The "funds received" method is used to allocate the cost of fundraising expenses by calculating the ratio of federal funds received to total receipts for the program or event.

[7] *See supra footnote 5.*

5. Committee Response to the Draft Final Audit Report
RPOMF provided no formal response to the Draft Final Audit Report.

Commission Conclusion
On December 2, 2021, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to report allocation ratios on Schedule H2 (Allocation Ratios) for associated fundraising expenses and as a result, applied the incorrect allocation ratio for disbursements totaling $73,129. The Commission did not approve, by the required four votes, the Audit staff's recommendation.

On December 14, 2021, the Commission again considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to report allocation ratios on Schedule H2 (Allocation Ratios) for associated fundraising expenses and as a result, applied the incorrect allocation ratio for disbursements totaling $73,129.

The Commission approved the Audit staff's recommendation.

Finding 4. Disclosure of Loans and Loan Repayments

Summary
During audit fieldwork, the Audit staff determined that RPOMF failed to properly disclose 50 transactions totaling $525,742. RPOMF did not properly disclose the correct purpose for interest payments and loan repayments on Schedule B (Itemized Disbursements), Line 21(b) (Federal Operating Expenditures) and Schedule B, Line 26 (Loan Repayments). RPOMF also disclosed the incorrect loan terms on Schedule C-1 (Loans and Line of Credit from Lending Institutions) and Schedule C (Loans). In response to the Interim Audit Report recommendation, RPOMF filed Forms 99 (Miscellaneous Electronic Submission) for each affected report. The Forms 99 correctly disclosed the loan terms that appear on Schedule C-1, the cumulative payment and the outstanding amount at the close of the period on Schedule C. However, none of the Forms 99 addressed the incorrect purposes disclosed for loan repayments and loan interest payments on Schedule B, Line 26 and Line 21(b), respectively. In addition, RPOMF provided no formal response to the Draft Final Audit Report. As such, the Audit staff concludes RPOMF did not materially correct the public record.

The Commission approved a finding that RPOMF failed to properly disclose the purpose and the terms of loans totaling $525,742 on Schedule B, Line 21(b) (Federal Operating Expenditures), Schedule B, Line 26 (Loan Repayments), Schedule C-1 (Loans and Line of Credit from Lending Institutions) and Schedule C (Loans).

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).

B. Itemizing Loans. Each person who makes a loan to the political committee during the reporting period must be disclosed with the following information:

- Identification of any endorser or guarantor of the loan;
- The date the loan was made;
- The amount of the loan. 11 CFR §104.3(a)(4)(iv).

C. Disclosure of Expenditures. A political committee must disclose each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet the committee's operating expenses, together with the date, amount, and purpose of such operating expenditure. Purpose means a brief statement or description of why the disbursement was made. 11 CFR §104.3(b)(3).

D. Reporting Bank Loans, Home Equity Loans and Other Lines of Credit. A political committee must disclose in the report covering the period when the loan was obtained on Schedules C-1:

- The date, amount, and interest rate of the loan;
- The name and address of the lending institution; and
- The types and value of the collateral or other sources of repayment that secure the loan, if any. 11 CFR §104.3(d)(4).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed two bank loans ($693,040) and one line of credit ($100,000) to RPOMF totaling $793,040. One of the loans and the line of credit originated prior to the audit period but still carried outstanding balances as of the January 1, 2017, the beginning of the audit period. Based on the review of loans and draws on the line of credit, the Audit staff determined that RPOMF disclosed incorrect purposes for loan repayments and interest payments on Schedule B, Lines 26 and 21(b), respectively, and/or incorrect or incomplete disclosure information on Schedules C-1 and C when compared to the loan agreements. These errors consisted of 50 transactions totaling $525,742.

These errors consisted of disclosing incorrect information including: terms for due dates, incorrect incurred dates, incorrect interest rate, marking the loans as unsecured despite the bank agreements indicating the loans were secured with collateral, incorrect purpose for interest payments and incorrect purpose for bank loan repayments. The loans and line of credit documentation provided by RPOMF did not support the information that was reported on the disclosure reports.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with RPOMF representatives during the exit conference and provided a schedule of the loan interest repayments and loan repayments disclosed incorrectly.

In response to the exit conference, RPOMF representatives acknowledged the disclosure errors and stated:

> "Regarding the incorrect reporting of RP[O]M[F] bank note (loan) details in terms of: maturity date of notes, interest rates, collateral, note date, the RP[O]M[F] as noted in correspondence to the FEC and in various memoranda to the RP[O]M[F]'s FEC analyst, the RP[O]M[F]'s FEC reporting software[8] had a significant, and at the time, unsolved issue in this area. While we knew on each monthly filing as indicated to the FEC auditors that certain loan disclosures were not accurate and in spite of attempting to obtain corrected fields from our FEC filing software[9] package, we were not successful from approximately May of 2017 through November of 2018. It should be noted that all loan dollar activity in terms of loan advances, loan payments, interest expense paid, and end of the reporting period loan balances were accurate in our filed FEC reports. The correct interest rate, incur date, due date and secured checked box are noted as well as a digital Schedule C-1 with the bank address and authorized bank representative's name and electronic signature in our response in the attachment labeled "Finding 6 response". The RP[O]M[F] will work closely with our FEC analyst to properly amend the affected FEC reports with respect to these loan terms, although we hope that the attached response in the excel file and the attached Schedule C-1 will satisfy our obligation. We are not confident our software will be able to properly produce amended reports from 2017-2018 without further errors. The loan information has already corrected and the interest rate, incur date, due date and the secured box checked is correct as filed."

RPOMF provided draft Forms 99 and a draft Schedule C-1. As of the date of the Interim Audit Report, RPOMF had not formally filed the Forms 99 or amended the disclosure reports inclusive of the corrected Schedule C-1.

The Interim Audit Report recommended that RPOMF provide documentation demonstrating that the identified loan interest payments and loan repayments were correctly disclosed. Absent such documentation, the Interim Audit Report recommended that RPOMF amend its reports or file a Form 99 (Miscellaneous Electronic Submission)[10] to disclose the correct information on Schedule B, Schedule C, and Schedule C-1.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOMF reiterated its statement provided in response to the exit conference and filed Forms 99. The Forms 99 correctly disclosed the loan terms that appear on Schedule C and Schedule C-1, the cumulative

[8] RPOMF purchased and used third-party software to prepare and file its disclosure reports.
[9] *See supra footnote 8.*
[10] *See supra footnote 5.*

payment and the outstanding amount at the close of the period that corrected the public record for both Schedule C and Schedule C1. However, none of the Forms 99 addressed the incorrect purposes disclosed for loan repayments and loan interest payments on Schedule B, Line 26 and Line 21(b), respectively. RPOMF also filed a Form 99 for Schedule C-1 disclosing all pertinent information that appears on Schedule C-1. The Audit staff concludes RPOMF did not materially correct the public record because the Forms 99 filed do not contain all pertinent information on each Schedule B required to correct the purpose for interest payments and loan repayments.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that RPOMF correctly disclosed the loan terms that appear on Schedule C and Schedule C-1, the cumulative payment and the outstanding amount at the close of the period that corrected the public record for both Schedule C and Schedule C1. However, RPOMF did not materially correct the public record because the Forms 99 filed do not contain all pertinent information on each Schedule B required to correct the purpose for interest payments and loan repayments.

E. Committee Response to the Draft Final Audit Report

RPOMF provided no formal response to the Draft Final Audit Report.

Commission Conclusion

On December 2, 2021, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to properly disclose the purpose and the terms of loans totaling $525,742 on Schedule B, Line 21(b) (Federal Operating Expenditures), Schedule B, Line 26 (Loan Repayments), Schedule C-1 (Loans and Line of Credit from Lending Institutions) and Schedule C (Loans). The Commission did not approve, by the required four votes, the Audit staff's recommendation.

On December 14, 2021, the Commission again considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to properly disclose the purpose and the terms of loans totaling $525,742 on Schedule B, Line 21(b) (Federal Operating Expenditures), Schedule B, Line 26 (Loan Repayments), Schedule C-1 (Loans and Line of Credit from Lending Institutions) and Schedule C (Loans).

The Commission approved the Audit staff's recommendation.

Part V
Additional Issues

Issue 1. Reporting of Apparent Independent Expenditures

Summary

During audit fieldwork, the Audit staff reviewed expenditures totaling $710,834, that RPOMF disclosed on Schedule B (Itemized Disbursements), Line 21(b) (Other Federal Operating Expenditures); Schedule B, Line 30(b) (Federal Election Activity Paid Entirely with Federal Funds) and Schedule H4 (Disbursements for Allocated Federal /Nonfederal Activity), that appear to be independent expenditures that contain express advocacy and should have been disclosed on Schedule E, Line 24 (Itemized Independent Expenditures).

For the $710,834 disclosed as operating expenditures, federal election activity, or allocated federal/non-federal activity which appear to be independent expenditures, RPOMF did not file 24/48-hour reports totaling $704,265.

Additionally, the Audit staff identified five disbursements totaling $101,665 that RPOMF invoices indicate were "volunteer driven," which were disclosed as federal election activity on Schedule B, Line 30(b) and operating expenditures on Schedule B, Line 21(b) and appear to be independent expenditures requiring disclosure on Schedule E. Furthermore, if the disbursements are determined to be independent expenditures, then RPOMF may have been required to file 24/48-hour reports for $61,565 of the $101,665 expenditures, depending on the date of public dissemination.

In response to the Interim Audit Report recommendation, RPOMF stated the expenditures referenced in this finding were all general party building fundraising for the general fund which referenced multiple candidates and did not advocate or oppose one single candidate. RPOMF did not provide any new documents, amend its disclosure reports to report the transactions on Schedule E or address the potential requirement to file 24/48-hour reports. In addition, RPOMF provided no formal response to the Draft Final Audit Report. Therefore, the Audit staff maintains RPOMF made apparent independent expenditures totaling $710,834 and did not correct the public record by amending the disclosure reports to include the transactions on Schedule E.

Regarding the five "volunteer driven" disbursements, RPOMF stated that the items were either general party fundraising, voter list purchase, a candidate reimbursement, a non-candidate printed fan or paid GOTV calls. There was no response regarding the requirement of filing of 24/48-hour reports. And RPOMF provided no formal response to the Draft Final Audit Report. Based on RPOMF's response, four of the five disbursements totaling $101,590 appear to be independent expenditures requiring reporting on Schedule E and may have required filing of 24/48-hour reports.

The Commission did not approve, by the required four votes, the Audit staff's recommendation that RPOMF failed to properly disclose apparent independent

expenditures totaling $710,834 on Schedule E (Independent Expenditures). In addition, the Commission did not approve, by the required four votes, the Audit staff's recommendation that RPOMF failed to provide documentation to support $101,590 was volunteer exempt activity and as a result, should be disclosed as independent expenditures on Schedule E. Finally, the Commission did not approve, by the required four votes, the Audit staff's recommendation that RPOMF failed to file 24/48-hour reports for apparent independent expenditures totaling $704,265 and failed to file 24/48-hour reports for disbursements without volunteer exempt documentation totaling $61,565. Pursuant to Commission Directive 70,[11] this matter is discussed in the "Additional Issues" section of this report.

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 (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

[11] *See supra footnote 2.*

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).

G. Volunteer Activity. The payment by a state committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution, provided that the following conditions are met:

- Such payment is not for cost incurred in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication or political advertising. The term direct mail means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists;
- The portion of the cost of such materials allocable to Federal candidates must be paid from contributions subject to the limitations and prohibitions of the Act;

- Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate for federal office;
- Such materials are distributed by volunteers and not by commercial or for-profit operations;
- If made by a political committee such payments shall be reported by the political committee as a disbursement in accordance with 11 CFR §104.3 but need not be allocated to specific candidates in committee reports; and
- The exemption is not applicable to campaign materials purchased by the national party committees. 11 CFR §100.87 (a), (b), (c), (d), (e) and (g) and 11 CFR §100.147 (a), (b), (c), (d), (e) and (g).

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 RPOMF did not disclose any independent expenditures on Schedule E, however, it made apparent independent expenditures totaling $710,834 and disclosed them on Schedule B, Line 21(b); Schedule B, Line 30(b) and Schedule H4. The expenditures were for 58 fundraising mailers, email ads and campaign mailers which contained express advocacy. A breakdown analysis for these expenditures is as follows:

a. Apparent Independent Expenditures Reported as Operating Expenditures, Federal Election Activity (FEA) and Allocated Federal/Non-Federal Activity (Associated Mailer and Invoice Provided under 11 CFR §100.22(a))

RPOMF made 55 disbursements for apparent independent expenditures totaling $709,909 for which it provided copies of the mailers and ads with associated invoices for the identified disbursements, and cancelled checks or wire transfer documentation.[12]

The mailers and ads provided contained phrases such as, “Defeat Democrat Senator Amy Klobuchar,” “Vote for our Republican candidates on the ballot,” “We’ve got three outstanding national conservative leaders to re-elect: Representatives Erik Paulsen, Tom Emmer and Jason Lewis,” “Next year, Senator Amy Klobuchar has got to go!,” and "Re-elect Congressmen Erik Paulsen, Tom Emmer and Jason Lewis to advance the reform-driven Trump Agenda." All of these communications contained language expressly advocating the election or defeat of a clearly identified candidate, as defined under 11 CFR §100.22(a).

b. Apparent Independent Expenditures Reported as Operating Expenditures and Disbursements for Allocated Federal /Non-Federal (Associated Mailer and Invoice Provided under 11 CFR §100.22(b))

[12] For eight of these disbursements, RPOMF provided partial copies of the mailers and/or invoices.

RPOMF made three disbursements for apparent independent expenditures totaling $925 for which it provided copies of the mailers and ads with the associated invoices for the identified disbursements and cancelled checks or wire transfer documentation.

The mailers contained the following phrases, "As we close in on the general election November 6th….vote for our Republican candidates on the ballot! Please spread the word far and wide, this election is too important for us to lose. It's time. We will TURN MINNESOTA RED," "We are optimistic about our opportunities this November and look forward to retiring Congressman Peterson. The 2018 election year may be even more important than 2016. With … two U.S. Senate races, eight congressional seats…this is our time to sweep Minnesota and TURN MINNESOTA RED," and "…we know that voters are sticking with our two Republican members of Congress….The Republican Party of Minnesota believes in results, not resistance, and we look forward to re-electing these two great Congressmen in November!" This communication names the congressional candidates and shows their picture. Based on the definition of express advocacy under 11 CFR §100.22(b), the Audit staff believed that these mailers could only be interpreted by a reasonable person as advocating the election or defeat of a clearly identified candidate.

The Audit staff noted that of the $710,834 in apparent independent expenditures, seven telephone communication scripts totaling $191,925 only expressly advocated the election or defeat of one or more clearly identified candidates if the caller reached a specified point in the scripts provided by RPOMF.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with the RPOMF representatives during the exit conference and provided a schedule detailing these expenditures. RPOMF representatives indicated that the expenditures were for general fundraising with a call of action for giving money as opposed to containing express advocacy. In response to the exit conference, RPOMF representatives stated that "…expenditures referenced were all general party building fundraising for the committee's general fund. The letters and scripts contained multi-candidate references and did not advocate or oppose one single candidate." RPOMF also submitted 66 mailers and ad pieces to the Audit staff, of which 56 were previously provided during fieldwork and 10 were partial as they were still missing identified media scripts.

The Audit staff maintained that the identified expenditures were apparent independent expenditures. The Commission has generally affirmed that the cost of fundraising communications may be independent expenditures if they contain express advocacy, as in the Final Audit Reports of the Mississippi Republican Party, the National Campaign Fund, the Legacy Committee Political Action Committee, the Conservative Majority Fund, and the Freedom's Defense Fund. The Commission similarly found reason to believe that a failure to file independent expenditure reports

for the costs of fundraising letters expressly advocating the election or defeat of clearly identified candidates violated the Federal Election Campaign Act.

The Interim Audit Report recommended that RPOMF provide documentation that apparent independent expenditures, totaling $710,834, did not require reporting as independent expenditures. The documentation should have also demonstrated that the scripts either were not used or callers reading the scripts did not reach the point in the scripts where the communication included express advocacy for telephone communications totaling $191,925. Absent such documentation, the Interim Audit Report recommended that RPOMF amend its reports to disclose these disbursements as independent expenditures on Schedule E.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOMF reiterated its position that the apparent independent expenditures identified in the audit "…were all general party building fundraising for the committee's general fund. The letters and scripts contained multi-candidate references and did not advocate or oppose one single candidate." RPOMF did not provide any new documentation and did not amend the disclosure reports to reflect the transactions in question on Schedule E.

The Audit staff maintains its position that, based on the content of documentation previously provided, the communications contained language expressly advocating the election or defeat of a clearly identified candidate, as defined under 11 CFR §100.22(a). In addition, based on the definition of express advocacy under 11 CFR §100.22(b), the Audit staff believes these mailers could only be interpreted by a reasonable person as advocating the election or defeat of a clearly identified candidate. Therefore, RPOMF made apparent independent expenditures totaling $710,834 and did not correct the public record by amending the disclosure reports to include the transactions on Schedule E.

4. Draft Final Audit Report

The Draft Final Audit Report acknowledged that RPOMF did not provide any additional documents with respect to this matter. Therefore, RPOMF made apparent independent expenditures totaling $710,834 and did not correct the public record by amending its disclosure reports to include the transactions on Schedule E.

5. Committee Response to the Draft Final Audit Report

RPOMF provided no formal response to the Draft Final Audit Report.

Commission Conclusion

On December 2, 2021, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the

Commission find that RPOMF failed to properly disclose apparent independent expenditures totaling $710,834 on Schedule E (Independent Expenditures).

The Commission did not approve, by the required four votes, the Audit staff's recommendation. Commission Directive 70 directs that each "Additional Issue" will contain a statement describing the Commission's discussion of the issue. Some Commissioners voted not to approve the recommendation, consistent with their votes in a prior matter.

On December 14, 2021, the Commission voted to move the finding to the "Additional Issues" section of the audit report.

Pursuant to Commission Directive 70, this matter is presented as an "Additional Issue."

B. Volunteer Materials Exemption

1. Facts

RPOMF reported five disbursements totaling $101,665 on Schedule B, Line 30(b) as federal election activity. The reported purposes included "non-allocable FEA mail," "transportation for GOTV" and "GOTV calls." The invoices for these disbursements indicated "volunteer driven," however, RPOMF did not provide any volunteer documentation to support these particular disbursements.

The Commission has addressed the applicability of the volunteer materials exemption in the Final Audit Reports of the Arizona Republican Party, the Democratic Executive Committee of Florida, and the Tennessee Republican Party. In these reports, the Commission recognized a lack of clarity regarding the application of the volunteer materials exemption. The Commission had attempted to formulate a consensus policy regarding what constitutes substantial volunteer involvement for the purpose of applying the exemption[13], but this was never achieved. Since a lack of clarity exists concerning the application of the volunteer materials exemption, it follows that the type and amount of documentation needed to support volunteer involvement is also unclear.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with RPOMF representatives during the exit conference and provided a schedule detailing these expenditures. In response to the exit conference, RPOMF representatives stated that RPOMF was unable to locate the volunteer documentation for some of the identified expenditures and the remaining expenditures were "either general party fundraising, voter list purchase, a candidate reimbursement, a non-candidate printed fan or paid GOTV calls."

[13] Proposed Interim Enforcement Policy, Agenda document No. 10-16. https://www.fec.gov/resources/updates/agendas/2010/mtgdoc1016.pdf

The Interim Audit Report recommended that RPOMF provide documentation and evidence that apparent independent expenditures did not require reporting as independent expenditures. Evidence could have included any further documentation such as volunteer sign in sheets and photographs to support the involvement of volunteers processing or distributing the communications. Absent such evidence, the Interim Audit Report recommended RPOMF amend its reports to disclose the disbursements as independent expenditures on Schedule E.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOMF reiterated its response to the exit conference that it was unable to locate documentation for some of the identified expenditures and the remaining expenditures "were either general party fundraising, voter list purchase, a candidate reimbursement, a non-candidate printed fan or paid GOTV calls." RPOMF did not provide any new documentation. Based on RPOMF's response, four disbursements, totaling $101,590[14], appear to be independent expenditures requiring reporting on Schedule E and may have required the filing of 24/48-hour reports.

4. Draft Final Audit Report

The Draft Final Audit Report acknowledged that RPOMF did not provide any additional documents with respect to this matter. As a result, four disbursements, totaling $101,590, appear to be independent expenditures requiring reporting on Schedule E and may have required the filing of 24/48-hour reports.

5. Committee Response to the Draft Final Audit Report

RPOMF provided no formal response to the Draft Final Audit Report.

Commission Conclusion

On December 2, 2021, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to provide documentation to support $101,590 was volunteer exempt activity and as a result, should be disclosed as independent expenditures on Schedule E.

The Commission did not approve, by the required four votes, the Audit staff's recommendation. Commission Directive 70 directs that each "Additional Issue" will contain a statement describing the Commission's discussion of the issue. Some Commissioners voted not to approve the recommendation, consistent with their votes in a prior matter**.**

[14] Regarding the fifth disbursement, after the issuance of the Interim Audit Report and further discussion, the Audit staff accepts that the $75 for a bus reimbursement should have been reported as an in-kind contribution to the candidate and is therefore not an apparent independent expenditure. This reduces the violation amount from $101,665 to $101,590. 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.

On December 14, 2021, the Commission voted to move the finding to the "Additional Issues" section of the audit report.

Pursuant to Commission Directive 70, this matter is presented as an "Additional Issue."

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

1. Facts

In addition to not reporting any independent expenditures during the audit period, RPOMF did not file any 24 or 48-hour reports.[15] Of the $710,834 in apparent independent expenditures reported as operating expenditures, federal election activity and allocated federal/non-federal activity:

- RPOMF failed to file 48-hour reports totaling $676,953.
- RPOMF failed to file 24-hour reports totaling $27,312.

Absent evidence the expenditures totaling $101,590[6] were not required to be reported as independent expenditures, RPOMF may have also been required to file 24/48-hour reports for these disbursements, which did not have the volunteer materials exemption.

- RPOMF failed to file a 48-hour report totaling $36,565.
- RPOMF failed to file a 24-hour report totaling $25,000.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter at the exit conference and provided RPOMF representatives a schedule detailing the expenditures along with the volunteer materials exemption. In response to the exit conference, RPOMF representatives stated that "…expenditures referenced were all general party building fundraising for the committee's general fund. The letters and scripts contained multi-candidate references and did not advocate or oppose one single candidate."

Absent documentation that the apparent independent expenditures totaling $805,855[16] did not require reporting as independent expenditures, the Interim Audit Report recommended that RPOMF 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 Interim Audit Report

In response to the Interim Audit Report recommendation, RPOMF did not provide any new documentation and did not submit a statement regarding the failure to file

[15] 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.

[16] $805,855 = $676,953 + $27,312 + $101,590

24/48-hour reports. Absent documentation, the Audit staff maintains RPOMF may have failed to file 24/48-hour reports.

4. Draft Final Audit Report
The Draft Final Audit Report acknowledged that RPOMF did not provide any additional comments with respect to this matter. The Audit staff maintains RPOMF may have failed to file 24/48-hour reports.

5. Committee Response to the Draft Final Audit Report
RPOMF provided no formal response to the Draft Final Audit Report.

Commission Conclusion
On December 2, 2021, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF failed to file 24/48-hour reports for apparent independent expenditures totaling $704,265 and failed to file 24/48-hour reports for disbursements without volunteer exempt documentation totaling $61,565.

The Commission did not approve, by the required four votes, the Audit staff's recommendation. Commission Directive 70 directs that each "Additional Issue" will contain a statement describing the Commission's discussion of the issue. The Audit staff notes that the Commission did not discuss this issue.

On December 14, 2021, the Commission voted to move the finding to the "Additional Issues" section of the audit report.

Pursuant to Commission Directive 70, this matter is presented as an "Additional Issue."

Issue 2. Excessive Coordinated Party Expenditures

Summary
During audit fieldwork, the Audit staff identified apparent coordinated expenditures for three House candidates that exceeded the 2018 coordinated party expenditure limit by a total of $255,421. In response to the Interim Audit Report recommendation, RPOMF did not provide any new documentation. RPOMF stated that, "The media pieces referenced were non-allocable volunteer driven mail. It is the RP[O]M[F]'s understanding if there is a volunteer component, the expenditure does not count as a contribution to the candidate." RPOMF provided no formal response to the Draft Final Audit Report. Absent documentation to support the volunteer materials exemption, the Audit staff maintains RPOMF made apparent excessive coordinated expenditures totaling $255,421. RPOMF provided no formal response to the Draft Final Audit Report.

The Commission did not approve, by the required four votes, the Audit staff's recommendation that RPOMF made apparent excessive coordinated expenditures for

three candidates totaling $255,421. Pursuant to Commission Directive 70,[17] this matter is discussed in the "Additional Issues" section of this report.

Legal Standard

A. Coordinated Party Expenditures. National party committees and state party committees are permitted to purchase goods and services on behalf of candidates in the general election—over and above the contributions that are subject to contribution limits. Such purchases are referred to as "coordinated party expenditures." They are subject to the following rules:

- The amount spent on "coordinated party expenditures" is limited by statutory formulas that are based on the Cost of Living Adjustment (COLA) and the voting age population;
- Party committees are permitted to coordinate the spending with the candidate committees;
- The parties may make these expenditures only in connection with the general election;
- The party committees—not the candidates—are responsible for reporting these expenditures; and
- If the party committee exceeds the limits on coordinated party expenditures, the excess amount is considered an in-kind contribution, subject to the contribution limits. 52 U.S.C. §30116(d) and 11 CFR §§109.30 and 109.32.

B. Assignment of Coordinated Party Expenditure Limit. A political party may assign its authority to make coordinated party expenditures to another political party committee. Such an assignment must be made in writing, state the amount of the authority assigned, and be received by the assignee before any coordinated party expenditure is made pursuant to the assignment. The political party committee that is assigned authority to make coordinated party expenditures must maintain the written assignment for at least three years. 11 CFR §§104.14 and 109.33(a) and (c).

C. Volunteer Activity. The payment by a state committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution, provided that the following conditions are met:

1. Such payment is not for costs incurred in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication or political advertising. The term direct mail means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.
2. The portion of the cost of such materials allocable to Federal candidates must be paid from contributions subject to the limitations and prohibitions of the Act.
3. Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate for Federal office.

[17] *See supra footnote 2.*

4. Such materials are distributed by volunteers and not by commercial or for-profit operations.
5. If made by a political committee, such payments shall be reported by the political committee as a disbursement in accordance with 11 CFR §104.3 but need not be allocated to specific candidates in committee reports.
6. The exemption is not applicable to campaign materials purchased by the national party committees. 11 CFR §100.87 (a), (b), (c), (d), (e) and (g) and 11 CFR §100.147 (a), (b), (c), (d), (e) and (g).

D. Coordinated Party Communication. A political party communication is coordinated with a candidate, a candidate's authorized committee, or agent of any of the foregoing, when the communication satisfies the following conditions:

(1) The communication is paid for by a political party committee or its agent.

(2) The communication satisfies at least one of the content standards.

- Must expressly advocate a candidate's election of defeat 11 CFR §100.22(a) and (b).
- Involve the dissemination, distribution or republication of a candidate's campaign materials.
- Refers to a federal candidate, is directed to the candidate's constituents and is distributed within certain time frame before an election.

(3) The communication satisfies at least one of the conduct standards in 11 CFR §109.21(d)(1) through (d)(6), subject to the provisions of 11 CFR §109.21(e), (g), and (h).

- Must have been created, produced or distributed at the request of the candidate or its' agent.
- Developed with a "material involvement" of the candidate.
- Created, produced or distributed after "substantial discussion" with the candidate or his agents.
- The use of a common vendor in the creation, production or distribution of a communication. 11 CFR §109.37.

E. Reporting Coordinated Party Expenditures. Each political committee shall report the full name of each person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under 11 CFR Part 109, Subpart D (52 U.S.C. §30116(d)), together with the date, amount and purpose of any such expenditure as well as the name of, and office sought by the candidate on whose behalf the expenditure is made. 11 CFR §104.3 (b)(1)(viii).

F. Limits on Contributions Made by State and Local Party Committees.
State and local party committees must comply with the contribution limits below:

- $5,000 per election to a Federal campaign if the contributing committee has qualified as a multicandidate committee.
- $2,700 per election to a Federal campaign if the contributing committee has not qualified as a multicandidate committee.
- $5,000 per year to a separate segregated fund (corporate or labor PAC) or a nonconnected committee.

- Unlimited transfers to other party committees. 52 U.S.C. §30116(a).

Facts and Analysis

A. Facts

The coordinated expenditure limit during the 2018 election cycle for a House candidate in the state of Minnesota was $49,700 each for the state and national party committees. RPOMF and the Republican National Committee (RNC) each transferred their coordinated expenditure limit spending authority to the National Republican Congressional Committee (NRCC) to make coordinated expenditures on behalf of House candidates Erik Paulsen (Minnesota District 03), Jason Lewis (Minnesota District 02), and Pete Stauber (Minnesota District 08).

During audit fieldwork, the Audit staff's review of disbursements identified apparent coordinated expenditures made on behalf of Friends of Erik Paulsen consisting of one direct mail piece totaling $23,166 that was reported on Schedule B, Line 30(b). In addition, RPOMF made apparent coordinated expenditures on behalf of Jason Lewis for Congress consisting of nine direct mail pieces totaling $179,049 that were reported on Schedule B, Line 30(b) and Schedule H4. Finally, RPOMF made apparent coordinated expenditures on behalf of Pete Stauber for Congress Volunteer Committee consisting of four direct mail pieces totaling $68,206 that were reported on Schedule B, Line 30(b) and Schedule H4. These apparent coordinated expenditures were made subsequent to RPOMF transferring its coordinated expenditure limit spending authority to the NRCC.[18] As a result, these expenditures were in excess of the authorized coordinated spending limit for each candidate and resulted in an apparent excessive in-kind contribution to each candidate.

The Audit staff's analysis was based on a three-pronged test to determine whether a communication is a party coordinated communication. A communication must satisfy all three prongs of the test to be considered a party coordinated expenditure. The three-prong test consists of a payment prong, a content prong and a conduct prong.

- **Payment Prong** means the communication is paid for, in whole or in part, by a person other than the candidate. All communications in this finding were paid by RPOMF and traced to its federal account.

- **Content Prong** means the communication must meet any one of these three standards to meet the content prong:
  - Expressly advocates the election or defeat of a clearly identified candidate for federal office per 11 CFR §100.22(a)or (b); or
  - Involves the dissemination, distribution or republication of a candidate's campaign materials; or

[18] RPOMF transferred its coordinated expenditure limit spending authority to the NRCC on behalf of House candidates Erik Paulsen (Minnesota District 03) on 09/07/18, Jason Lewis (Minnesota District 02) on 10/02/18, and Pete Stauber (Minnesota District 08) on 09/07/18.

- Refers to a clearly identified federal candidate and is publicly distributed in the identified candidate's jurisdiction within 90 days of the candidate's general election.

All communications in this finding contained express advocacy for a clearly identified federal candidate per 11 CFR §100.22(a) or (b) or referred to a clearly identified federal candidate and was publicly distributed in the identified candidate's jurisdiction within 90 days of the candidate's general election.

- **Conduct Prong** means the communication must have been one of the following:
  - Created, produced or distributed at the request of the candidate or its agents; or
  - Developed with a material involvement of the candidate; or
  - Created, produced or distributed after substantial discussion with the candidate or its agents; or
  - Involved the use of a common vendor by the candidate committee and the party committee in the creation, production or distribution of a communication; or
  - A former employee/independent contractor used or conveyed information about the plans, projects, activities or needs of the candidate to create the communication.

All the communications in this finding contained the following disclaimers: "Paid for by Republican Party of Minnesota and authorized by Friends of Erik Paulsen," "Paid for by Republican Party of Minnesota and authorized by Jason Lewis for Congress," or "Paid for by the Republican Party of Minnesota and authorized by Pete Stauber for Congress Volunteer Committee." In addition, all three candidate committees and RPOMF employed a common vendor in the creation, production or distribution of the communications.

The following chart details the total amount of apparent coordinated expenditures and the resulting apparent excessive in-kind contributions.

RPOMF Apparent Coordinated Expenditures	Friends of Erik Paulsen	Jason Lewis for Congress	Pete Stauber for Congress Volunteer Committee	Total
Reported Expenditures	$ 23,166	$ 179,049	$ 68,206	
Less: RPOMF Spending Limit	(0)	(0)	(0)	
Over Limit (In-kind Contribution)[19]	$ 23,166	$ 179,049	$ 68,206	
Less: Allowable	($5,000)	($5,000)	($5,000)	

[19] Total amount over the coordinated expenditure limit before adjusting for allowable contributions was $270,421.

Contribution[20]				
Excessive In-kind Contributions	**$ 18,166**	**$ 174,049**	**$ 63,206**	**$ 255,421**

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with RPOMF representatives during the exit conference and provided a schedule of the apparent excessive in-kind contributions. In response to the exit conference, RPOMF representatives stated that these mail pieces were non-allocable volunteer driven mail, covered under the volunteer materials exemption, and therefore did not count as a contribution to the candidate. RPOMF provided photos of volunteer activity for the Erik Paulsen mailer, however, the content of the photos did not identify the mailer in question.[21] RPOMF did not provide photos of volunteer activity for the other mailers.

The Commission has addressed the applicability of the volunteer materials exemption in the Final Audit Reports of the Arizona Republican Party, the Democratic Executive Committee of Florida, and the Tennessee Republican Party. In these reports, the Commission recognized a lack of clarity regarding the application of the volunteer materials exemption. The Commission had attempted to formulate a consensus policy regarding what constitutes substantial volunteer involvement for the purpose of applying the exemption[22], but this was never achieved. Since a lack of clarity exists concerning the application of the volunteer materials exemption, it follows that the type and amount of documentation needed to support volunteer involvement is also unclear.

The Interim Audit Report recommended that RPOMF demonstrate that it did not exceed its coordinated spending limit on behalf of Friends of Erik Paulsen, Jason Lewis for Congress, and Pete Stauber for Congress Volunteer Committee. Evidence could have included sign in sheets and pictures of volunteers sorting and bundling the identified mail pieces. Absent such evidence, the Interim Audit Report recommended that RPOMF seek reimbursements from the respective committees for Erik Paulsen in the amount of $18,166, Jason Lewis in the amount of $174,049, and Pete Stauber in the amount of $63,206.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOMF reiterated its position provided at the exit conference by stating, “The media pieces referenced were non-allocable volunteer driven mail. It is the RP[O]M[F]’s understanding if there is a volunteer component, the expenditure does not count as a contribution to the candidate.” The Audit staff notes RPOMF did not provide any new documentation to support volunteers were used and did not provide any documentation that it sought

[20] RPOMF did not report any contributions to federal candidates during the 2018 election cycle.

[21] The Audit staff notes that RPOMF was able to provide some evidence for the volunteer materials exemption totaling $94,361. This amount is not included in the apparent coordinated expenditures total noted above. RPOMF provided pictures of individuals sorting and moving the mailers to trucks along with the volunteers’ name and phone number.

[22] Proposed Interim Enforcement Policy, Agenda document No. 10-16. https://www.fec.gov/resources/updates/agendas/2010/mtgdoc1016.pdf.

reimbursements from the three candidates. Absent documentation, the Audit staff maintains RPOMF made apparent excessive coordinated expenditures totaling $255,421.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that RPOMF did not provide any additional documents with respect to this matter. As a result, the Audit staff maintains RPOMF made apparent excessive coordinated expenditures totaling $255,421.

E. Committee Response to the Draft Final Audit Report

RPOMF provided no formal response to the Draft Final Audit Report.

Commission Conclusion

On December 2, 2021, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that RPOMF made apparent excessive coordinated expenditures for three candidates totaling $255,421.

The Commission did not approve, by the required four votes, the Audit staff's recommendation. Commission Directive 70 directs that each "Additional Issue" will contain a statement describing the Commission's discussion of the issue. The Audit staff notes that the Commission did not discuss this issue.

On December 14, 2021, the Commission voted to move the finding to the "Additional Issues" section of the audit report.

Pursuant to Commission Directive 70[23], this matter is presented as an "Additional Issue."

[23] *See supra footnote 2.*