



Draft Final Audit Report of the Audit Division on Steve Daines for Montana (January 1, 2019 - December 31, 2020)

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 Campaign (p. 2)

Steve Daines for Montana is the principal campaign committee for Steve Daines, Republican candidate for the United States Senate from the state of Montana, and is headquartered in Helena, Montana. For more information, see the Campaign Organization Chart, p. 2.

Financial Activity (p. 2)

| | |
|--|----------------------|
| • Receipts | |
| ○ Contributions from Individuals | \$ 27,131,569 |
| ○ Contributions from Political Committees | 3,304,667 |
| ○ Transfers from Authorized Committees | 1,371,488 |
| ○ Other Receipts | 71,802 |
| Total Receipts | \$ 31,879,526 |
| • Disbursements | |
| ○ Operating Expenditures | \$ 29,508,162 |
| ○ Transfers to Authorized Committees | 7,754 |
| ○ Contribution Refunds to Individuals | 498,117 |
| ○ Contribution Refunds to Political Committees | 34,003 |
| ○ Other Disbursements | 3,173,883 |
| Total Disbursements | \$ 33,221,919 |

Findings and Recommendations (p. 4)

- Receipt of Contributions in Excess of the Limit (Finding 1)
- Disclosure of Debts and Obligations (Finding 2)
- Disclosure of Receipts (Finding 3)

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 Steve Daines for Montana (SDFM), 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 shall 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 excessive contributions;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the disclosure of individual contributors' occupation and name of employer;
5. the disclosure of debts and obligations;
6. the consistency between reported figures and bank records;
7. the completeness of records; and
8. other committee operations necessary to the review.

Part II

Overview of Campaign

Campaign Organization

| | |
|--|--|
| Important Dates | |
| • Date of Registration | November 12, 2010 |
| • Audit Coverage | January 1, 2019 – December 31, 2020 |
| Headquarters | |
| Helena, Montana | |
| Bank Information | |
| • Bank Depositories | Three |
| • Bank Accounts | Three checking, One money market, One CD |
| Treasurer | |
| • Treasurer When Audit Was Conducted | Lorna Kuney |
| • Treasurer During Period Covered by Audit | Lorna Kuney |
| Management Information | |
| • Attended FEC Campaign Finance Seminar | No |
| • Who Handled Accounting and Recordkeeping Tasks | Paid Staff |

Overview of Financial Activity (Audited Amounts)

| | |
|--|----------------------|
| Cash on hand @ January 1, 2019 | \$ 1,450,176 |
| Receipts | |
| ○ Contributions from Individuals | 27,131,569 |
| ○ Contributions from Political Committees | 3,304,667 |
| ○ Transfers from Authorized Committees | 1,371,488 |
| ○ Other Receipts | 71,802 |
| Total Receipts | \$ 31,879,526 |
| Disbursements | |
| ○ Operating Expenditures | 29,508,162 |
| ○ Transfers to Authorized Committees | 7,754 |
| ○ Contribution Refunds to Individuals | 498,117 |
| ○ Contribution Refunds to Political Committees | 34,003 |
| ○ Other Disbursements | 3,173,883 |
| Total Disbursements | \$ 33,221,919 |
| Cash on hand @ December 31, 2020 | \$ 107,783 |

Part III

Summaries

Findings and Recommendations

Finding 1. Receipt of Contributions in Excess of the Limit

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any exceeded the contribution limit. This review, as revised for the Draft Final Audit Report, indicated that SDFM received apparent excessive contributions totaling \$496,604. These errors occurred as a result of SDFM not resolving the excessive portions of contributions by requesting and receiving signed reattribution letters from its contributors, issuing refunds for the excessive portion of contributions in a timely manner, or ensuring that issued refunds were resolved in a timely manner. In response to the Interim Audit Report recommendation, SDFM maintained its objection to the use of sampling to estimate or project errors. SDFM resolved excessive contributions, totaling \$114,177, albeit untimely. SDFM stated that an additional \$36,000 in refunds were issued; however, it did not provide cancelled checks to the contributors, or an acceptable alternative, to substantiate these refunds. The Audit staff recommends that SDFM provide documentation demonstrating that the remaining excessive contributions, totaling \$382,427, were not excessive, or if excessive, that the contributions were resolved in a timely manner. Absent such demonstration, the Audit staff further recommends that SDFM obtain a signed reattribution letter from each contributor, refund any remaining excessive amounts, or disgorge to the U.S. Treasury any refunds it has been unable to process.

(For more detail, see p. 6.)

Finding 2. Disclosure of Debts and Obligations

During audit fieldwork, the Audit staff noted that SDFM failed to disclose debts and obligations to five vendors, totaling \$373,967. In response to the Interim Audit Report recommendation, SDFM filed amended disclosure reports; however, it did not include these debts and obligations. In its narrative response, SDFM stated that an ad buy of \$108,750 did not require reporting because it was not incurred at the time of the invoice. SDFM stated the ad buy was “delayed” and the invoice was paid, instead, when the vendor indicated the obligation was made. SDFM did not provide additional documentation, such as email communications with the vendor, to substantiate this position. SDFM further stated that invoices, totaling \$48,868, did not require reporting as debts because the invoiced amounts were disputed, and it paid the invoices once clarification was received from the vendor. Regarding the remaining debts and obligations, SDFM stated that the debts should be excluded from the finding because they only overlapped reporting periods by 6-8 days and were therefore “...immaterial to the public record.”

The Audit staff maintains that SDFM should provide documentation to support its position that the ad buy was delayed and appropriately paid once incurred. For the

possible disputed debts and remaining obligations, the explanations provided by SDFM do not exclude the debts and obligations from the reporting requirements. Absent the provision of supporting documentation, the Audit staff maintains that these debts and obligations were required to be reported on Schedule D (Debts and Obligations). (For more detail, see p. 11.)

Finding 3. Disclosure of Receipts

During audit fieldwork, the Audit staff reviewed receipts to verify the accuracy of the information disclosed on SDFM's reports. The review indicated that SDFM did not correctly disclose contributions from individuals and political committees, totaling \$568,804 and \$39,000, respectively on Schedule A (Itemized Receipts). In addition, the Audit staff determined that SDFM received a total of \$1,409,254 in net proceeds from joint fundraising activity from 22 joint fundraising committees. However, SDFM did not itemize or correctly disclose transfers and memo entries, totaling \$843,231, on Schedule A, as required. Finally, the Audit staff determined that SDFM received a total of \$9,400 in net proceeds through one conduit. The conduit was itemized on Line 12 (Transfers from Other Authorized Committees) instead of disclosed as a memo entry, and the original contributors, totaling \$9,400, were not itemized. In response to the Interim Audit Report recommendation, SDFM maintained its objection to the use of sampling to estimate or project errors. Additionally, SDFM filed amended reports for the 2020 election cycle; however, the amended reports did not materially correct the public record. SDFM's amended reports corrected most of the disclosure errors for the political committees, the joint fundraising activity, and the conduit. However, nearly all of the identified errors for contributions from individuals remain inaccurately disclosed.² The Audit staff recommends that SDFM amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission) to correctly disclose the contributions from individuals totaling \$549,204. (For more detail, see p. 14.)

² The disclosure errors for contributions from individuals are presented in the chart, Disclosure Errors for Individuals, on page 16.

Part IV

Findings and Recommendations

Finding 1. Receipt of Contributions in Excess of the Limit

Summary

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any exceeded the contribution limit. This review, as revised for the Draft Final Audit Report, indicated that SDFM received apparent excessive contributions totaling \$496,604. These errors occurred as a result of SDFM not resolving the excessive portions of contributions by requesting and receiving signed reattribution letters from its contributors, issuing refunds for the excessive portion of contributions in a timely manner, or ensuring that issued refunds were resolved in a timely manner. In response to the Interim Audit Report recommendation, SDFM maintained its objection to the use of sampling to estimate or project errors. SDFM resolved excessive contributions, totaling \$114,177, albeit untimely. SDFM stated that an additional \$36,000 in refunds were issued; however, it did not provide cancelled checks to the contributors, or an acceptable alternative, to substantiate these refunds. The Audit staff recommends that SDFM provide documentation demonstrating that the remaining excessive contributions, totaling \$382,427, were not excessive, or if excessive, that the contributions were resolved in a timely manner. Absent such demonstration, the Audit staff further recommends that SDFM obtain a signed reattribution letter from each contributor, refund any remaining excessive amounts, or disgorge to the U.S. Treasury any refunds it has been unable to process.

Legal Standard

A. Authorized Committee Limits. For the 2020 election, an authorized committee may not receive more than a total of \$2,800 per election from any one person or \$5,000 per election from a multicandidate political committee. 52 U.S.C. §§30116(a)(1)(A) and (a)(2)(A); 11 CFR §§110.1(a) and (b) and 110.9.

B. Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable check to the donor; or
- Deposit the check into its federal account and:
 - Keep enough money in the account to cover all potential refunds;
 - Keep a written record explaining why the contribution may be illegal;
 - Include this explanation on Schedule A if the contribution has to be itemized before its legality is established;
 - Seek a reattribution or a redesignation of the excessive portion, following the instructions provided in the Commission regulations (see below for explanations of reattribution and redesignation); and
 - If the committee does not receive a proper reattribution or redesignation within 60 days after receiving the excessive contribution, refund the excessive

portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii) (B).

C. Joint Contributions. Any contribution made by more than one person (except for a contribution made by a partnership) must include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. A joint contribution is attributed equally to each donor unless a statement indicates that the funds should be divided differently. 11 CFR §110.1(k)(1) and (2).

D. Reattribution of Excessive Contributions. The Commission regulations permit committees to ask donors of excessive contributions (or contributions that exceed the committee's net debts outstanding) whether they had intended their contribution to be a joint contribution from more than one person and whether they would like to reattribute the excess amount to the other contributor. The committee must inform the contributor that:

- The reattribution must be signed by both contributors;
- The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper reattribution or refund the excessive portion to the donor. 11 CFR §§103.3(b) (3) and 110.1(k)(3)(ii)(B). Further, a political committee must retain written records concerning the reattribution in order for it to be effective. 11 CFR §110.1(l)(5).

Notwithstanding the above, any excessive contribution that was made on a written instrument that is imprinted with the names of more than one individual may be attributed among the individuals listed unless instructed otherwise by the contributor(s). The committee must inform each contributor:

- How the contribution was attributed; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3)(ii)(B).

E. Redesignation of Excessive Contributions. When an authorized candidate committee receives an excessive contribution (or a contribution that exceeds the committee's net debts outstanding), the committee may ask the contributor to redesignate the excess portion of the contribution for use in another election. The committee must inform the contributor that:

- The redesignation must be signed by the contributor;
- The redesignation must be received by the committee within 60 days after the committee received the original contribution; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(b)(5).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper redesignation or refund the excessive portion to the donor. 11 CFR §§103.3(b) (3) and 110.1(b) (5) (ii) (A). Further, a political committee must retain written records concerning the redesignation in order for it to be effective. 11 CFR §110.1(l)(5).

When an individual makes an excessive contribution to a candidate's authorized committee, the campaign may presumptively redesignate the excessive portion to the general election if the contribution:

- Is made before that candidate's primary election;
- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the contributor to exceed any other contribution limit. 11 CFR §110.1(b)(5)(ii)(B)(1)-(4).

The committee is required to notify the contributor of the redesignation within 60 days of the treasurer's receipt of the contribution and must offer the contributor the option to receive a refund instead.

Facts and Analysis

A. Facts

1. Facts

The Audit staff utilized sample testing and a review of other contributions, not included in the sample population, to identify apparent excessive contributions from individuals, as noted below.

| Excessive Contributions - Testing Method | |
|--|------------------------|
| Sample Projection Amount ³ | \$291,803 |
| 100% Review of High Dollar Contributions | \$152,451 ⁴ |
| 100% Review of Contributions Received Through Joint Fundraisers | \$52,350 |
| Total Amount of Excessive Contributions | \$496,604 |
| Reason for Excessive Contributions | |
| Contributions Not Resolved via Signed Reattribution Letter or Refund | \$496,604 |

³ The sample error amount (\$291,803) was projected using a Monetary Unit Sample with a 95 percent confidence level. The sample estimate could be as low as \$143,260 or as high as \$583,597.

⁴ After reviewing the response to the Interim Audit Report, the Audit staff removed one contribution totaling \$2,800 from the finding. This contribution, while excessive, was refunded prior to the Audit. Additionally, the Audit staff removed excessive contributions, totaling \$2,400, after discovering that the contributions were presumptively redesignated by SDFM prior to the Audit. As such, the finding has been updated from \$501,804 in total excessive contributions to \$496,604.

| Excessive Contributions - Testing Method | |
|---|------------------|
| Total Amount of Excessive Contributions | \$496,604 |

2. Additional Information

The errors were primarily a result of SDFM not resolving the excessive portions of contributions made on single/joint account checks, credit card, or through a joint fundraiser by requesting signed reattribution letters or a refund. SDFM did issue refunds, however, some of the refunds were not cashed by the contributors. The total amount of refunds issued, but not cashed, is \$60,327.

SDFM did not maintain a separate account for questionable contributions. Based on its cash on hand at the end of the audit period, it appears that SDFM did not maintain sufficient funds to refund the apparent excessive contributions.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with SDFM representatives at the exit conference and provided a schedule of the apparent excessive contributions. SDFM representatives questioned the use of sampling in the audit, and the Audit staff explained that the Audit Division has used statistical sampling for many years and that it is a widely used tool in accounting and auditing. The Audit staff then walked SDFM representatives through each excessive contribution, at their request.

In response to the exit conference, SDFM representatives stated that they object to the use of sampling to project errors. The Audit staff notes that the use of statistical sampling has been approved by the Commission for use in Title 52 audits for over 30 years.

SDFM representatives also contended that contributions, for which it issued refunds but the refund checks were not cashed by the contributors, should be treated as a separate category from those contributions that were never refunded. The Audit staff acknowledged that SDFM issued refund checks, which were not cashed, for excessive contributions; however, these checks should have been re-issued, or the excessive amounts disgorged to the U.S. Treasury, so that the amount of the excessive contribution did not remain in SDFM's bank accounts.

SDFM representatives also objected to the inclusion of a contribution that they stated was not actually excessive. SDFM's database records and its disclosure reports showed the receipt of three contributions on the same date from a single contributor, one in the amount of \$5,600, and two in the amount of \$2,800 each. The \$5,600 contribution was refunded timely, via a credit card chargeback, so SDFM did not believe this contributor made excessive contributions. However, the Audit staff reviewed the credit card records provided by SDFM, and found three contributions from this same contributor, all on the same date, each for \$5,600, for a total of \$16,800. There was one chargeback that refunded one of the \$5,600 contributions in a timely manner. SDFM may designate one of the remaining two \$5,600 contributions, as \$2,800 for the primary election and

presumptively redesignate \$2,800 to the general election. However, the final \$5,600 contribution remains excessive and should be refunded.

The Interim Audit Report recommended that SDFM:

- Provide evidence, which demonstrates that the contributions, totaling \$496,604,⁵ were not excessive, or if excessive, were resolved in a timely manner.
- Absent such demonstration, SDFM should have obtained a signed authorization letter from the contributor, refunded any remaining excessive amounts, or disgorged any refunds, which were not cashed by the contributors, to the U.S. Treasury.
- If funds were not available to make such refunds, SDFM should have reported the excessive contributions as debts owed on Schedule D (Debts and Obligations) until funds became available to make the refunds.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, SDFM representatives maintained their objection to the use of sampling to project errors. The Audit staff reiterates that the use of statistical sampling has been approved by the Commission for use in Title 52 audits for over 30 years.

SDFM representatives also restated their contention that contributions, for which it issued refund checks, but the refund checks were not cashed by the contributors, should be treated as a separate category from contributions that were never refunded. The Audit staff again acknowledges that SDFM issued refund checks for excessive contributions, which were not cashed; however, these refund checks should have been voided and re-issued, or the excessive amounts disgorged to the U.S. Treasury, so that the excessive contributions did not remain in SDFM's bank accounts.

In addition, SDFM stated that excessive contributions, totaling \$56,920, were disgorged to the U.S. Treasury and provided bank records showing the same. SDFM further stated that "all remaining contributions specifically identified by the Audit Division as excessive" were refunded, and that the refunds were reported on its 2022 October Quarterly Report, with additional refunds to appear on its next disclosure report. SDFM reported refunds, totaling \$96,782, on its 2022 October Quarterly Report, however, bank records documenting the refunds were provided for only \$57,282 of the \$96,782 in reported refunds.

⁵ See footnote 4.

| Corrective Action Taken by SDFM – Excessive Contributions | |
|---|------------------------|
| Total Excessive Contributions as of the Draft Final Audit Report | \$496,604 ⁶ |
| Contributions Refunded – <i>Issued Untimely, Refunds Supported by Documentation – Resolved</i> | \$57,282 ⁷ |
| Contributions Disgorged to the U.S. Treasury – <i>Disgorged Untimely, Disgorgements Supported by Documentation – Resolved</i> | \$56,895 ⁸ |
| Contributions Refunded – <i>Issued Untimely, No Documentation to Support Refunds – Not Resolved</i> | \$36,000 ⁷ |
| Amount of Excessive Contributions – <i>Not Resolved</i> | \$382,427 |

The Audit staff concludes that SDFM resolved excessive contributions, totaling \$114,177,⁹ albeit untimely. The Audit staff recommends that SDFM provide documentation demonstrating that the remaining excessive contributions, totaling \$382,427,¹⁰ were not excessive, or if excessive, were resolved in a timely manner. Absent such demonstration, the Audit staff further recommends that SDFM obtain a signed reattribution letter from each contributor, refund any remaining excessive amounts, or disgorge to the U.S. Treasury any refunds it has been unable to process.

Finding 2. Disclosure of Debts and Obligations

Summary

During audit fieldwork, the Audit staff noted that SDFM failed to disclose debts and obligations to five vendors, totaling \$373,967. In response to the Interim Audit Report recommendation, SDFM filed amended disclosure reports; however, it did not include these debts and obligations. In its narrative response, SDFM stated that an ad buy of \$108,750 did not require reporting because it was not incurred at the time of the invoice. SDFM stated the ad buy was “delayed” and the invoice was paid, instead, when the

⁶ See footnote 4.

⁷ The reported refunds, totaling \$96,782, exceed the amount of the corrective action taken (\$57,282 + \$36,000 = \$93,282) because SDFM refunded \$3,500 in contributions that were not included in the violation amount for this finding.

⁸ The reported disgorgements to the U.S. Treasury (\$56,920) exceed the amount of the corrective action taken (\$56,895) because SDFM disgorged \$25 in contributions that were not included in the violation amount for this finding.

⁹ \$57,282 + \$56,895 = \$114,177

¹⁰ \$496,604 - \$114,177 = \$382,427

vendor indicated the obligation was made. SDFM did not provide additional documentation, such as email communication with the vendor, to substantiate this position. SDFM further stated that invoices, totaling \$48,868, did not require reporting as debts because the invoiced amounts were disputed, and it paid the invoices once clarification was received from the vendor. Regarding the remaining debts and obligations, SDFM stated that the debts should be excluded from the finding because they only overlapped reporting periods by 6-8 days and were therefore "...immaterial to the public record."

The Audit staff maintains that SDFM should provide documentation to support its position that the ad buy was delayed and appropriately paid once incurred. For the possible disputed debts and remaining obligations, the explanations provided by SDFM do not exclude the debts and obligations from the reporting requirements. Absent the provision of supporting documentation, the Audit staff maintains that these debts and obligations were required to be reported on Schedule D (Debts and Obligations).

Legal Standard

- A. Continuous Reporting Required.** A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 52 U.S.C. §30104(b)(8) and 11 CFR §§104.3(d) and 104.11(a).
- B. Separate Schedules.** A political committee must file separate schedules for debts owed by the committee and debts owed to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).
- C. Itemizing Debts and Obligations.**
- A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it on the next regularly scheduled report.
 - A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).
- D. Reporting Disputed Debts**
- A disputed debt shall be reported in accordance with 11 CFR§ 104.3(d) and 104.11 if the creditor has provided something of value to the political committee. Until the dispute is resolved, the political committee shall disclose on the appropriate reports any amounts paid to the creditor, any amount the political committee admits it owes and the amount the creditor claims is owed. The political committee may also note on the appropriate reports that the disclosure of the disputed debt does not constitute an admission of liability or a waiver of any claims the political committee may have against the creditor. 11 CFR §116.10(a).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed SDFM's disbursement records and disclosure reports for the proper reporting of debts and obligations. This review identified debts, owed to five vendors totaling \$373,967,¹¹ that SDFM failed to report on Schedule D during the audit period. Based on a review of the records, these vendors provided advertising, fundraising, direct mail, website and listing services, shipping, event catering, and consulting services. SDFM reported debt, totaling \$758,664, on Schedule D during the audit period. The Audit staff calculated the debts, owed to the vendors, based on the invoice date and the subsequent payment date. Debts were outstanding for periods ranging from 13 to 108 days.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with SDFM representatives at the exit conference and provided a schedule detailing those transactions requiring disclosure on Schedule D. The SDFM representatives had no comments at that time.

In response to the exit conference, SDFM provided additional documentation for \$23,907 of the outstanding debt showing that the invoices were provided at a later date than the dates reflected on these invoices. As a result, this amount was deducted from the overall undisclosed debt balance discussed at the exit conference and is not included in this finding. SDFM did not provide comments on the remaining undisclosed debts.

The Interim Audit Report recommended that SDFM provide additional documentation demonstrating that the transactions, totaling \$373,967, were not obligations which required reporting on Schedule D. Absent such documentation, it was further recommended that SDFM amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)¹² to disclose these debts and obligations.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, an SDFM representative stated that while one debt for an ad buy, totaling \$108,750, was invoiced in June 2020, SDFM did not actually purchase this ad buy until September of 2020, and therefore no reporting of the debt was required. In addition, the SDFM representative stated that SDFM disputed the amount of two debts owed to one vendor totaling \$48,868, and once that dispute was resolved, the debts were paid promptly. Finally, the SDFM representative stated that the remaining debts were only unreported for brief periods of time (6-8 days), and are therefore "...immaterial to the public record," as the debts were paid in the subsequent reporting period.

Regarding the ad buy, the Audit staff requested additional documentation, such as an email with the vendor, to verify this, and none was provided. For the debts that SDFM

¹¹ Each debt was counted only once, even if it was required to be disclosed over multiple periods.

¹² If SDFM chooses to file a Form 99 instead of amending its disclosure reports, the form must contain all pertinent information that is required on each schedule.

disputed, the Audit staff notes that, per 11 CFR §116.10(a), disputed debts must be reported if the creditor has provided something of value to the political committee. Furthermore, the Audit staff notes that 11 CFR §104.11(b) states that debts in excess of \$500 must be disclosed in the report that covers the date on which the debt was incurred. Each of these debts exceeded \$500 and were not paid in the reporting period in which they were incurred.

Absent the provision of documentation to show that the \$108,750 ad buy was not actually incurred in June 2020, the Audit staff maintains that all the transactions, totaling \$373,967, were debts and obligations that required reporting on Schedule D.

Finding 3. Disclosure of Receipts

Summary

During audit fieldwork, the Audit staff reviewed receipts to verify the accuracy of the information disclosed on SDFM's reports. The review indicated that SDFM did not correctly disclose contributions from individuals and political committees, totaling \$568,804 and \$39,000 respectively, on Schedule A (Itemized Receipts). In addition, the Audit staff determined that SDFM received a total of \$1,409,254 in net proceeds from joint fundraising activity from 22 joint fundraising committees. However, SDFM did not itemize or correctly disclose transfers and memo entries, totaling \$843,231, on Schedule A, as required. Finally, the Audit staff determined that SDFM received a total of \$9,400 in net proceeds through one conduit. The conduit was itemized on Line 12 (Transfers from Other Authorized Committees) instead of disclosed as a memo entry, and the original contributors, totaling \$9,400, were not itemized. In response to the Interim Audit Report recommendation, SDFM maintained its objection to the use of sampling to estimate or project errors. Additionally, SDFM filed amended reports for the 2020 election cycle; however, the amended reports did not materially correct the public record. SDFM's amended reports corrected most of the disclosure errors for the political committees, the joint fundraising activity, and the conduit. However, nearly all of the identified errors for contributions from individuals¹³ remain inaccurately disclosed. The Audit staff recommends that SDFM amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission) to correctly disclose the contributions from individuals totaling \$549,204.

Legal Standard

- A. Itemization Required for Contributions from Individuals.** An authorized candidate committee must itemize any contribution from an individual if it exceeds \$200 per election cycle, either by itself or when combined with other contributions from the same contributor. 52 U.S.C. §30104(b)(3)(A). (Authorized)
- B. Election Cycle.** The election cycle begins on the first day following the date of the previous general election and ends on the date of the next general election. If

¹³ See chart, Disclosure Errors for Individuals, on page 16.

contributions and expenditures are designated for another election cycle, then the election cycle begins when the first contribution is received or expenditure is made. 11 CFR §100.3(b).

- C. Required Information for Contributions from Individuals.** For each itemized contribution from an individual, the committee must provide the following information:
- The contributor’s full name and address (including zip code);
 - The contributor’s occupation and the name of his or her employer;
 - The date of receipt (the date the committee received the contribution);
 - The amount of the contribution; and
 - The calendar year-to-date (Unauthorized) election cycle-to-date (Authorized) total of all contributions from the same individual. 11 CFR §§100.12 and 104.3(a)(4) and 52 U.S.C. §30104(b)(3)(A).
- D. Best Efforts Ensures Compliance.** When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee’s reports and records will be considered in compliance with the Act. 52 U.S.C. §30102(i).
- E. Definition of Best Efforts.** The treasurer and the committee will be considered to have used “best efforts” if the committee satisfied all of the following criteria:
- All written solicitations for contributions included:
 - A clear request for the contributor's full name, mailing address, occupation, and name of employer; and
 - The statement that such reporting is required by Federal law.
 - Within 30 days after the receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
 - The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committee’s records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).
- F. Itemization of Contributions from Joint Fundraising Efforts.** After the joint fundraising representative distributes the net proceeds, each participating political committee reports its share as a transfer-in from the joint fundraising representative and itemizes the transfer on a separate schedule A for that Line. Using the records received from the joint fundraising representative, a participating committee also must itemize its share of gross receipts as contributions from the original donors on a memo entry Schedule A to the extent required under 11 CFR §104.3(a).

When itemizing gross contributions, the participant must report the date of receipt as the day the joint fundraising representative received the contribution. 11 CFR §102.17(c)(3)(iii) and (c)(8)(i)(B).

Facts and Analysis

A. Disclosure of Receipts

1. Facts

The Audit staff utilized sample testing and a review of other contributions not included in the sample population to identify contributions from individuals, totaling \$568,804, and political committees, totaling \$39,000, which were not correctly disclosed on Schedule A of SDFM's disclosure reports. These reporting errors consisted of the following.

| Disclosure of Contributions - Testing Method | |
|---|------------------|
| Sample Projection Amount ¹⁴ | \$535,012 |
| 100% Review of High Dollar Contributions from Individuals | \$33,792 |
| 100% Review of Contributions from Political Committees | \$39,000 |
| Total Error Amount | \$607,804 |

The types of errors discovered in the sample review include incorrect disclosure of receipt date, name, and/or disclosure without a partnership attribution.

| Disclosure Errors for Individuals | |
|---|-----------------|
| Type of Review | 100% |
| Contributions Disclosed without Partnership Attribution | \$19,600 |
| Contributions Disclosed with Incorrect Receipt Date | \$5,600 |
| Contributions Disclosed with Incorrect Amount | \$5,592 |
| Contributions Disclosed with Incorrect Name | \$3,000 |
| Total Error Amount | \$33,792 |

¹⁴ The sample error amount (\$535,012) was projected using a Monetary Unit Sample with a 95 percent confidence level. The sample estimate could be as low as \$273,748 or as high as \$970,100.

| Disclosure Errors for PACs¹⁵ | |
|--|-----------------|
| Type of Review | 100% |
| Contributions Disclosed without an Address | \$27,000 |
| Contributions Disclosed with Incorrect Name | \$16,000 |
| Contributions Disclosed with an Incorrect Election Designation | \$1,000 |
| Total Error Amount | \$39,000 |

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the disclosure errors at the exit conference and provided schedules detailing the incorrectly disclosed contributions. SDFM representatives inquired, and the Audit staff confirmed the method for determining date errors, and that contemporaneous documentation would be sufficient to show the date of the contribution receipt.

In response to the exit conference, SDFM stated that the date reported was correct for two contributions. The Audit staff accepted SDFM's explanation, and those contributions are not included in the error amounts within the report. Additionally, SDFM representatives stated that they object to the use of sampling to project errors. The Audit staff reiterated that the use of statistical sampling has been approved by the Commission for use in Title 52 audits for over 30 years. Finally, SDFM indicated that it would amend disclosure reports to correct the errors.

The Interim Audit Report recommended that SDFM amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)¹² to correctly disclose these contributions.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, SDFM maintained its objection to the use of sampling to estimate or project errors. SDFM amended all of its disclosure reports for calendar years 2019 and 2020 to correct the disclosure of contributions, as detailed below. Furthermore, an SDFM representative stated their belief that several contributions noted by the Audit staff as being reported with an incorrect date "...involve immaterial discrepancies that have no impact on the public record." The Audit staff notes that committees are required to report the date of receipt of a contribution. In the case of these contributions, SDFM did not

¹⁵ This group of errors and their respective dollar value exceed total errors (\$39,000) because one contribution, totaling \$5,000, had multiple disclosure errors. Each contribution was only counted once, toward the total error amounts, even if there were multiple errors.

provide proof of a receipt date that differed from documentation provided. Therefore, the Audit staff maintains that these discrepancies should be corrected and SDFM should amend its disclosure reports.

| Corrective Action Taken by SDFM – Disclosure of Receipts | |
|--|-------------------------|
| Incorrect Disclosures as of the Interim Audit Report | \$607,804 |
| Reports Amended - 100% Review of High Dollar Contributions from Individuals – <i>Corrected</i> | \$19,600 |
| Reports Amended - 100% Review of Contributions from Political Committees – <i>Corrected</i> | \$38,000 |
| Amount of Incorrectly Disclosed Contributions – <i>Not Resolved</i> | \$550,204 ¹⁶ |

The Audit staff concludes that incorrect disclosure of receipts, totaling \$550,204, remains unresolved.

B. Disclosure of Joint Fundraising Transfers and Memo Entries

1. Facts

During audit fieldwork, the Audit staff determined that SDFM received a total of \$1,409,254 in net proceeds from joint fundraising activity from 22 joint fundraising committees. However, SDFM did not itemize or correctly disclose transfers and memo entries, totaling \$843,231, on Schedules A (Itemized Receipts). These reporting errors consisted of the following:

| Disclosure Errors¹⁷ | |
|--|----------|
| Type of Review | 100% |
| Transfers Disclosed on Schedule A – Missing Address | \$84,110 |
| Transfers Disclosed on Schedule A – Incorrect Receipt Date | \$78,941 |
| Transfers Disclosed on Schedule A – Incorrect Amount | \$111 |

¹⁶ \$607,804 - \$19,600 - \$38,000 = \$550,204. This amount includes contributions from individuals, totaling \$549,204, and contributions from political committees, totaling \$1,000.

¹⁷ These groups of errors and their respective dollar value exceed total errors (\$843,231) because three contributions, totaling \$5,100, had multiple disclosure errors. Each contribution was only counted once toward the total error amount, even if there were multiple errors.

| Disclosure Errors¹⁷ | |
|---|------------------|
| Memo Entries Not Itemized | \$306,585 |
| Memo Entries Disclosed on Schedule A - Incorrect Receipt Date | \$345,034 |
| Memo Entries Disclosed on Schedule A – Apparent Duplicate Entries | \$22,250 |
| Memo Entries Disclosed on Schedule A – Incorrect Address | \$5,100 |
| Memo Entries Disclosed on Schedule A – Incorrect or Missing Name | \$3,200 |
| Memo Entries Disclosed on Schedule A – Incorrect Election Designation | \$2,400 |
| Memo Entries Disclosed on Schedule A – Incorrect Aggregate Total | \$600 |
| Total Error Amount | \$843,231 |

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with SDFM representatives at the exit conference and provided schedules detailing the missing or incorrectly disclosed contributions. SDFM representatives did not directly comment on these errors in response to the exit conference.

The Interim Audit Report recommended that SDFM amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)¹² to correctly disclose the joint fundraising transfers and memo entries.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, SDFM amended all of its disclosure reports for calendar years 2019 and 2020 to correct the disclosure of transfers and memo entries, as detailed below.

| Corrective Action Taken by SDFM – Disclosure of Joint Fundraising Transfers and Memo Entries | |
|---|------------------------|
| Incorrect Disclosures as of the Interim Audit Report | \$843,231 |
| Reports Amended – <i>Transfers Corrected</i> | \$163,162 |
| Reports Amended – <i>Memo Entries Corrected</i> | \$669,132 |
| Amount of Incorrect Disclosures Remaining– <i>Not Resolved</i> | \$10,937 ¹⁸ |

The Audit staff concludes that the incorrect disclosure of joint fundraising transfers and memo entries, totaling \$10,937, remains unresolved.

C. Disclosure of Contribution from a Conduit

1. Facts

During audit fieldwork, the Audit staff determined that SDFM received a total of \$9,400 in net proceeds through one conduit. The conduit was itemized on Line 12 (Transfers from Other Authorized Committees), however, the original contributors, totaling \$9,400, were not itemized. This resulted in a total of \$18,800 of incorrectly disclosed contributions. These reporting errors consisted of the following.

| Disclosure Errors | |
|---|-----------------|
| Type of Review | 100% |
| Conduit Incorrectly Itemized on Line 12 | \$9,400 |
| Contributors Not Itemized | \$9,400 |
| Total Error Amount | \$18,800 |

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with SDFM representatives at the exit conference and provided schedules detailing the missing or incorrectly disclosed contributions. SDFM representatives did not directly comment on these errors in response to the exit conference.

¹⁸ \$843,231 - \$163,162 - \$669,132 = \$10,937

The Interim Audit Report recommended that SDFM amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)¹² to itemize the required contributions and report the conduit as a memo entry.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, SDFM amended all of its disclosure reports for calendar years 2019 and 2020 to correct the disclosure of contribution from a conduit, as detailed below.

| Corrective Action Taken by SDFM – Disclosure of Contribution from a Conduit | |
|--|-----------------------|
| Incorrect Disclosures as of the Interim Audit Report | \$18,800 |
| Reports Amended – <i>Conduit Corrected</i> | \$9,400 |
| Reports Amended – <i>Contributors Corrected</i> | \$6,600 |
| Amount of Incorrectly Disclosed Contributions – <i>Not Resolved</i> | \$2,800 ¹⁹ |

The Audit staff concludes that the incorrect disclosure of a \$2,800 contribution from one contributor remains unresolved.

In summary, the Audit staff concludes that SDFM corrected 97% of the disclosure errors for political committees, 99% of disclosure errors for the joint fundraising activity, and 85% of the disclosure errors for the conduit. However, because SDFM did not correct 97% of the disclosure errors for contributions from individuals, totaling \$549,204, SDFM's disclosure errors remain materially incorrect.²⁰ Therefore, the Audit staff recommends that SDFM amend its disclosure reports or file a Form 99 to correctly disclose the remaining contributions from individuals totaling \$549,204.

¹⁹ \$18,800 - \$9,400 - \$6,600 = \$2,800.

²⁰ The Audit staff calculated the percentages of the corrected disclosure information by dividing the disclosure errors resolved by total disclosure errors for each disclosure category.