



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 1, 2000

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

A handwritten signature in black ink, appearing to be "RC" or "RJC", written over the name of the sender.

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE REPORT OF THE AUDIT DIVISION
ON THE SOUTH DAKOTA DEMOCRATIC PARTY

Attached please find a copy of the final audit report and related documents on the South Dakota Democratic Party which was approved by the Commission on November 9, 2000.

Informational copies of the report have been received by all parties involved and the report may be released to the public.

Attachment as stated

cc: Office of General Counsel
Office of Public Disclosure
Reports Analysis Division
FEC Library



FEDERAL ELECTION COMMISSION
Washington, DC 20463

SOUTH DAKOTA DEMOCRATIC PARTY
EXECUTIVE SUMMARY

The South Dakota Democratic Party (SDDP) registered with the Commission on August 24, 1982. The audit was conducted pursuant to 2 U.S.C. §438(b), which states that the Commission may conduct audits of any political committee whose reports fail to meet the threshold level of compliance set by the Commission.

The findings of the audit were presented to the SDDP at an exit conference held at the completion of fieldwork on June 28, 2000 and later in the interim audit report. The relevant parts of the SDDP's response to those findings are included in this audit report.

The following is an overview of the findings contained in the audit report.

Misstatement of Financial Activity — 2 U.S.C. §434(b)(1),(2) and (4). Disclosure reports filed for the period January 1, 1997 through December 31, 1998 contained material misstatements. For 1997, reported receipts were overstated by \$29,593 while disbursements were understated by \$12,448. For 1998, reported receipts were understated by \$74,567 while disbursements were understated by \$47,166. As a result of identified reporting discrepancies, the cash figure at December 31, 1998 was overstated by \$71,973. The SDDP filed amended 1997 and 1998 reports which corrected these misstatements.

Itemization of Contributions from Political Committees — 2 U.S.C. §434(b)(3), 2 U.S.C. §431(13)(B) and 11 CFR §102.17(c)(8)(B). The SDDP did not itemize 18 receipts, totaling \$83,226, received in 1998 from political committees. These 18 items were comprised of ten contributions, totaling \$10,500, from political committees and eight transfers, totaling \$72,726, from affiliated committees. The SDDP filed amended reports which materially corrected the deficiencies noted by the Audit staff.

Itemization of Disbursements — 2 U.S.C. §434(b)(5)(A) and 11 CFR §104.10(b)(4). The Audit staff reviewed disbursements made by the SDDP and identified 315 disbursements, totaling \$99,610, which were not itemized as required. Of these 315 disbursements, 162, totaling \$43,769, were made in 1997 and 153, totaling

\$55,841, were made in 1998. Based on the records made available, it appeared that all of these disbursements were for shared expenses and therefore should have been reported on Schedules H-4 (Joint Federal/ Non-Federal Activity Schedule). The SDDP filed amended Schedules H-4 which corrected these deficiencies.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**REPORT OF THE AUDIT DIVISION
ON THE
SOUTH DAKOTA DEMOCRATIC PARTY**

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of the South Dakota Democratic Party (SDDP), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to Section 438(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. 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.

B. AUDIT COVERAGE

The audit covered the period from January 1, 1997 through December 31, 1998. During this period, the SDDP reported a beginning cash balance of \$83,766; total receipts of \$1,666,147; total disbursements of \$1,637,017; and a closing cash balance of \$112,896¹.

C. COMMITTEE ORGANIZATION

The SDDP registered with the Commission on August 24, 1982² and maintains its headquarters in Sioux Falls, South Dakota. The Treasurers during the period covered by the audit were Henry Maicki (January 1, 1997 through July 6, 1998), Scott McGregor (July 7, 1998 through December 4, 1998) and Mark Anderson (December 5, 1998 through December 31, 1998). The current Treasurer is Bill Nibbelink.

¹ All figures in this report have been rounded to the nearest dollar.

² Originally named the Democratic Majority Campaign Committee, an amended Statement of Organization was filed in March, 1992 which changed the name to South Dakota Democratic Party.

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To manage its federal financial activity, the SDDP used five bank accounts and purchased three certificates of deposits. From these accounts the SDDP made approximately 2,500 disbursements. Receipts were composed of contributions from individuals totaling \$522,780; contributions from other political committees and transfers from affiliated and other party committees \$372,050; interest income of \$292; refunds and rebates of \$8,649, other federal receipts of \$100 and transfers from its non-federal accounts totaling \$807,050. The SDDP also maintained four non-federal accounts from which it expended \$1,132,218.

D. AUDIT SCOPE AND PROCEDURES

Although the SDDP met the minimum recordkeeping requirements of 2 U.S.C. §432(c) with respect to disbursements, the Audit staff was unable to test transfers from SDDP's non-federal accounts to its federal accounts to determine if they were made no more than 10 days before or 60 days after the payments as required by 11 CFR §106.5(g)(2)(ii)(B).

The audit included testing of the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations;
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as, the completeness and accuracy of the information disclosed (See Finding II.B.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (See Finding II.C.);
5. proper disclosure of debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to bank records (See Finding II.A.);
7. adequate recordkeeping for committee transactions;
8. proper disclosure of the allocation of costs associated with administrative expenses and activities conducted jointly on behalf of federal and non-federal elections and candidates; and
9. other audit procedures that were deemed necessary in the situation.

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Unless specifically discussed below, no material non-compliance with statutory or regulatory requirements was detected. It should be noted that the Commission may pursue further any of the matters discussed in this report in an enforcement action.

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. MISSTATEMENT OF FINANCIAL ACTIVITY

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code require a political committee to disclose the amount of cash on hand at the beginning of each reporting period and the total amount of all receipts and disbursements for each reporting period and the calendar year.

The Audit staff's reconciliation of the SDDP's reported financial activity to its bank activity, for the period January 1, 1997, through December 31, 1998, disclosed that the SDDP had misstated its receipts, disbursements and cash on hand balances. The SDDP did not provide workpapers detailing how the dollar amounts shown on its disclosure reports were calculated.

The SDDP overstated its 1997 reported receipts by \$29,593. This net overstatement was primarily due to the following: over reporting contributions from individuals, totaling \$19,388; over reporting contributions from political party committees, totaling \$9,700; erroneously reporting transfers from "ASDC - Dollars for Democrats" which were apparently deposited into a non-federal account, totaling \$8,000; not reporting transfers from a non-federal account, totaling \$4,700; and, not reporting refunds and rebates, totaling \$2,695.

The SDDP understated its 1997 reported disbursements by \$12,448. This net understatement was primarily due to the following: not reporting 162 disbursements, totaling \$43,769 (see Finding II.C.); erroneously reporting payments made from an SDDP non-federal account, totaling \$13,612; reporting disbursements twice, totaling 12,427; and, reporting voided checks without proper adjusting entries, totaling \$5,120.

The SDDP's reported beginning cash on hand balance at January 1, 1997 was overstated by \$57,332. SDDP officials were unable to explain this discrepancy. The reported ending cash on hand balance at December 31, 1997 was overstated by \$99,374. This overstatement resulted from the misstatements detailed above and from the overstatement of beginning cash on hand at January 1, 1997.

The SDDP understated its 1998 reported receipts by \$74,567. This net understatement was primarily due to the following: not reporting 18 contributions and transfers from political committees, totaling \$83,226 (see Finding II.B.); over reporting contributions from individuals, totaling \$22,417; not reporting a transfer from a non-

federal account in the amount of \$15,000; and, over reporting a transfer from a non-federal account in the amount of \$2,000.

The SDDP understated its reported 1998 disbursements by \$47,166. This net understatement was primarily due to the following: not reporting 153 disbursements, totaling \$55,841 (see Finding II.C.); reporting disbursements twice, totaling \$5,996; and, reporting voided checks without proper adjusting entries, totaling \$1,735.

The SDDP's reported ending cash on hand balance at December 31, 1998, was overstated by \$71,973 due to the misstatements detailed above.

At the Exit Conference, the SDDP representatives were provided with documentation explaining the misstatements. SDDP representatives did not provide any information at that time.

In the interim audit report, the Audit staff recommended that the SDDP file amended reports by report period for 1997 and 1998 which included Summary and Detailed Summary pages and the appropriate Schedules A (Itemized Receipts), B (Itemized Disbursements), C (Loans), H3 (Transfers from Non-Federal Accounts) and H4 (Joint Federal/Non-Federal Activity Schedule) to correct the misstatements noted above. In response to the interim audit report the SDDP filed amendments which corrected these misstatements.

B. ITEMIZATION OF CONTRIBUTIONS FROM POLITICAL COMMITTEES

Section 434(b)(3)(B) of Title 2 of the United States Code states that each report under this section shall disclose the identification of each political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution.

Section 434(b)(3)(D) of Title 2 of the United States Code states, in part, that each report under this section shall disclose the identification of each affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, together with the date and amount of such transfer.

Section 431(13)(B) of Title 2 of the United States Code defines "identification" to be, in the case of any other person (which includes committees), the full name and address of such person.

Section 102.17 (c)(8)(B) of Title 11 of the Code of Federal Regulations states, in part, that each committee participating in a joint fundraising activity shall report its share of net proceeds received as a transfer-in from the fundraising representative and

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shall also file a memo Schedule A itemizing its share of gross receipts as contributions from original contributors to the extent required under 11 CFR 104.3(a).

The Audit staff reviewed all contributions received from political committees and all transfers received from affiliated committees and determined that the SDDP did not itemize 18 receipts, totaling \$83,226, received in 1998 from political committees. These 18 items were comprised of ten contributions, totaling \$10,500, from political committees and eight transfers, totaling \$72,726, from affiliated committees. Of the eight transfers from affiliates, four were from the Democratic National Committee, totaling \$3,179, three were from the Association of State Democratic Chairs/Dollars for Democrats (ASDC), totaling \$6,547 and one was from the South Dakota Democratic Victory Fund Non-Federal in the amount of \$63,000. None of these items were included in the SDDP's reported 1998 receipt totals (see Finding II.A.).

According to disclosure reports filed by the ASDC, the three transfers from the ASDC, totaling \$6,547, were "proceeds" -- but no memo Schedules A were filed by the SDDP to itemize its share of gross proceeds as required by 11 CFR §102.17 (c)(8)(B).

At the exit conference, the Audit staff provided the SDDP representatives a detailed schedule of the errors. SDDP representatives did not provide any information at that time.

In the interim audit report the Audit staff recommended that the SDDP file amended Schedules A, by reporting period, which disclosed the contributions and transfers not previously itemized, as well as memo Schedules A relative to the proceeds transferred by the ASDC, and that these amendments be prepared in conjunction with the amendments recommended in Finding II.A. In response to the interim audit report the SDDP filed amended Schedules A itemizing the 18 transfers, totaling \$83,226, not previously itemized. In addition, the Committee provided photocopies of memo Schedules A filed by ASDC, covering activity between January 1, 1998 and June 30, 1998; these schedules reflected \$46,924 in unitemized receipts labeled as "SOUTH DAKOTA."

C. ITEMIZATION OF DISBURSEMENTS

Section 434(b)(5)(A) of Title 2 of the United States Code requires the reporting committee to disclose the name and address of 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 a committee operating expense, together with the date, amount, and purpose of such operating expenditure.

Section 104.10(b)(4) of Title 11 of the Code of Federal Regulations states, in relevant part, that a political committee that pays allocable expenses in accordance

with 11 CFR §106.5(g) shall also report each disbursement from its federal account or its separate allocation account in payment for a joint federal and non-federal expense or activity. In the report covering the period in which the disbursement occurred, the committee shall state the full name and address of each person to whom the disbursement was made, and the date, amount and purpose of each such disbursement.

The SDDP maintained separate federal and non-federal accounts and paid shared expenses from a separate allocation account pursuant to 11 CFR §106.5(g). The Audit staff reviewed disbursements made by the SDDP and identified 315 disbursements, totaling \$99,610, which were not itemized as required. Of these 315 items, 162, totaling \$43,769, were made in 1997 and 153, totaling \$55,841, were made in 1998. None of these items were included in the SDDP's reported disbursement totals for 1997 or 1998 (see Finding II.A.). Based on the records reviewed by the Audit staff, it appeared that nearly all of these disbursements were for shared expenses and were required to be reported on Schedules H-4.

At the exit conference, SDDP representatives were provided with schedules detailing the items which were not itemized as required. SDDP representatives did not provide any information at that time.

In the interim audit report the Audit staff recommended that the SDDP file amended Schedules H-4, by reporting period, for the items noted above and that these amendments be prepared in conjunction with the amendments recommended in Finding II.A. In response to the interim audit report the SDDP filed amended Schedules H-4 which corrected the public record.



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 22, 2000

Mr. Bill Nibbelink, Treasurer
South Dakota Democratic Party
P.O. Box 737
Sioux Falls, SD 57101

Dear Mr. Nibbelink:

Attached please find the Report of the Audit Division on the South Dakota Democratic Party. The Commission approved the report on November 9, 2000.

The Commission approved Final Audit Report will be placed on the public record on December 1, 2000. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 694-1220. Any questions you have related to matters covered during the audit or in the report should be directed to Robert Morcomb or Marty Favin of the Audit Division at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Costa".

Robert J. Costa
Assistant Staff Director
Audit Division

cc: Mr. Marc Elias, Counsel, Perkins Coie LLP
Ms. Diane Evans, Consultant, Evans & Katz LLC

Attachment as stated

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CHRONOLOGY

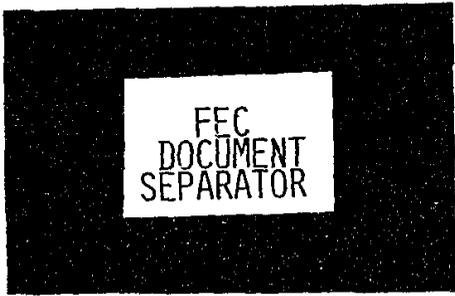
SOUTH DAKOTA DEMOCRATIC PARTY

Audit Fieldwork	3/23/00--6/28/00
Interim Audit Report to the Committee	9/08/00
Response Received to the Interim Audit Report	10/23/00
Final Audit Report Approved	11/09/00

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