



FEDERAL ELECTION COMMISSION  
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July 13, 2012

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *for PC*  
Staff Director

From: Patricia Carmona *PC*  
Chief Compliance Officer

Tom Hintermister *TH*  
Assistant Staff Director  
Audit Division

Kendrick Smith *KS*  
Audit Manager

By: Tesfai Asmamaw *TA for TA*  
Lead Auditor

Subject: Audit Division Recommendation Memorandum on the Colorado  
Republican Federal Campaign Committee<sup>1</sup> (CRFCC) (A09-13)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presents its recommendations below and discusses the findings in the attached Draft Final Audit Report (DFAR). The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

**Finding 1. Misstatement of Financial Activity**

In response to the DFAR, CRFCC filed amended disclosure reports for calendar year 2007 that materially corrected the public record. In the Proposed Final Audit Report, the Audit staff will state that CRFCC's corrective actions have materially resolved this matter.

The Audit staff recommends that the Commission find that CRFCC misstated its financial activity for 2007.

**Finding 2. Allocation of Expenditures**

In response to the DFAR, CRFCC contended that the net non-federal transfers to the allocation account (\$395,630) included transfers of \$147,260 for 100% non-federal activities paid from the allocation account and reported on its state campaign disclosure reports. CRFCC also acknowledged its error in paying for

<sup>1</sup> On August 9, 2010, CRFCC changed its name to the Colorado Republican Committee.

100% non-federal activity from the allocation account. CRFCC stated that this error stemmed from periods during which a large volume of checks were issued from its non-federal account, causing it to run out of checks. Rather than incur the costs of ordering checks and waiting for the new checks to arrive, CRFCC chose to transfer funds to its allocation account and make the necessary disbursements. CRFCC asserted that the Audit staff's proposed remedy was inadequate and improper to correct errors made in the reporting of or use of the allocation account as a pass-through account. CRFCC stated, "[t]he errors of the Committee were committed in the use of the allocations account as a pass-through account, and the failures by the Committee in not disclosing such transactions on Schedule H3 and other relevant federal reports, and not in the source or nature of the funds used." CRFCC expressed a willingness to file amended reports to correct the disclosure of the transfers to and disbursements from the allocation account. Finally, CRFCC noted that it has recently retained new accountants with more expertise and experience with campaign finance law, and that it has enacted significant changes in its use of its allocation account.

After reviewing CRFCC's response to the DFAR and its state campaign disclosure reports, the Audit staff confirmed that the non-federal transfers of \$147,260 to the allocation account were for payment of non-federal activities, which CRFCC had properly reported in its state campaign disclosure reports. As a result, the non-federal account has not overfunded its share of allocable activity and no further explanation is warranted. In the Proposed Final Audit Report, the Audit staff will state that CRFCC demonstrated that the non-federal account did not overfund its share of allocable activity; however, we will add that CRFCC failed to comply with 11 CFR §106.7(f) by making disbursements from the allocation account as payment for 100% non-federal activity.

The Audit staff recommends that the Commission find that CRFCC's non-federal account did not overfund its share of allocable activity.

The Committee originally requested an audit hearing and subsequently withdrew its request.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

In case of an objection, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Tesfai Asmamaw or Kendrick Smith at 694-1200.

**Attachment:**

- Draft Final Audit Report of the Audit Division on the Colorado Republican Federal Campaign Committee

cc: Office of General Counsel



# Draft Final Audit Report of the Audit Division on the Colorado Republican Federal Campaign Committee

January 1, 2007 - December 31, 2008

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## 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.<sup>1</sup> 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 Colorado Republican Federal Campaign Committee is a state party committee headquartered in Greenwood Village, Colorado. For more information, see the chart on the Committee Organization, p. 2.

## Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 1,401,637
○ Contributions from Political Committees	1,148,144
○ Transfers from Affiliated and Other Party Committees	8,073,144
○ Transfers from Non-federal Accounts	437,078
○ All Other Receipts	130,887
<b>Total Receipts</b>	<b>\$ 11,190,890</b>
• Disbursements	
○ Operating Expenditures	\$ 1,898,431
○ Transfers to Affiliated and Other Party Committees	4,656,015
○ Contributions to Federal Candidates and Committees	39,800
○ Other Disbursements	54,872
○ Federal Election Activity	4,109,265
○ Refund of Contributions	25,275
<b>Total Disbursements</b>	<b>\$ 10,783,658</b>

## Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Allocation of Expenditures (Finding 2)

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<sup>1</sup> 2 U.S.C. §438(b).

**Draft Final Audit Report of the  
Audit Division on the  
Colorado Republican Federal  
Campaign Committee**

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January 1, 2007 – December 31, 2008



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# **Part I**

## **Background**

### **Authority for Audit**

This report is based on an audit of the Colorado Republican Federal Campaign Committee (CRFCC), 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 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. 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. 2 U.S.C. §438(b).

### **Scope of Audit**

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

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

## Part II Overview of Committee

### Committee Organization

<b>Important Dates</b>	
• Date of Registration	February 17, 1976
• Audit Coverage	January 1, 2007 - December 31, 2008
<b>Headquarters</b>	
	Greenwood Village, Colorado
<b>Bank Information</b>	
• Bank Depositories	One
• Bank Accounts	Five Federal and Three Non-federal
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Richard Westfall
• Treasurer During Period Covered by Audit	Joseph Horatio Chavez (1/1/2007 to 8/15/2007) Richard Westfall (8/16/2007 to Present)
<b>Management Information</b>	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid staff

### Overview of Financial Activity (Audited Amounts)

<b>Cash-on-hand @ January 1, 2007</b>	<b>\$ 2,638</b>
<b>Receipts</b>	
○ Contributions from Individuals	1,401,637
○ Contributions from Political Committees	1,148,144
○ Transfers from Affiliated and Other Party Committees	8,073,144
○ Transfers from Non-federal Accounts	437,078
○ All Other Receipts	130,887
<b>Total Receipts</b>	<b>\$ 11,190,890</b>
<b>Disbursements</b>	
○ Operating Expenditures	1,898,431
○ Transfers to Affiliated and Other Party Committees	4,656,015
○ Contributions to Federal Candidates and Committees	39,800
○ Other Disbursements	54,872
○ Federal Election Activity	4,109,265
○ Refund of Contributions	25,275
<b>Total Disbursements</b>	<b>\$ 10,783,658</b>
<b>Cash-on-hand @ December 31, 2008</b>	<b>\$ 409,870</b>

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Misstatement of Financial Activity**

During audit fieldwork, a comparison of CRFCC's reported figures with bank records revealed a misstatement of receipts and disbursements in 2007. CRFCC understated receipts by \$70,809 and disbursements by \$61,104.

In the Interim Audit Report, the Audit staff recommended that CRFCC amend its disclosure reports to correct the misstatements.

CRFCC did not submit a response to the Interim Audit Report. In addition, CRFCC did not comply with the Audit staff's recommendation to file amended disclosure reports to correct the misstatements. (For more detail, see p. 4)

##### **Finding 2. Allocation of Expenditures**

During audit fieldwork, a review of disbursements made for allocable activity indicated that CRFCC overfunded its share of non-federal activity by \$131,725. In addition, it appears that CRFCC paid \$19,000 out of its allocation account for 100% non-federal activity.

In the Interim Audit Report, the Audit staff recommended that CRFCC demonstrate that the non-federal accounts did not overfund their share of allocable activity and provide additional comments regarding the payment of non-federal activity from the allocation account. Absent such a demonstration, the Audit staff recommended that CRFCC reimburse the non-federal accounts \$131,725.

CRFCC did not submit a response to the Interim Audit Report. As such, CRFCC did not comply with the Audit staff's recommendation to demonstrate that the non-federal accounts did not overfund their share of allocable activity. In addition, CRFCC has not provided any documentation that demonstrates that the non-federal accounts were reimbursed. (For more detail, see p. 6)

## Part IV

# Findings and Recommendations

### Finding 1. Misstatement of Financial Activity

#### Summary

During audit fieldwork, a comparison of CRFCC's reported figures with bank records revealed a misstatement of receipts and disbursements in 2007. CRFCC understated receipts by \$70,809 and disbursements by \$61,104.

In the Interim Audit Report, the Audit staff recommended that CRFCC amend its disclosure reports to correct the misstatements.

CRFCC did not submit a response to the Interim Audit Report. In addition, CRFCC did not comply with the Audit staff's recommendation to file amended disclosure reports to correct the misstatements.

#### Legal Standard

**Contents of Reports.** Each report must disclose:

- the amount of cash-on-hand at the beginning and end of the reporting period;
- the total amount of receipts for the reporting period and for the calendar year;
- the total amount of disbursements for the reporting period and for the calendar year; and
- certain transactions that require Itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4) and (5).

#### Facts and Analysis

##### A. Facts

As part of fieldwork, the Audit staff reconciled reported activity with bank records for calendar years 2007 and 2008. The following chart outlines the discrepancies for receipts and disbursements in 2007. Succeeding paragraphs address the reasons for the misstatements, if known.

2007 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2007	\$3,198	\$2,638	\$560 Overstated
Receipts	\$861,368	\$932,177	\$70,809 Understated
Disbursements	\$794,275	\$855,379	\$61,104 Understated
Ending Cash Balance @ December 31, 2007	\$70,291	\$79,436	\$9,145 Understated

CRFCC overstated its beginning cash balance by \$560, which is unexplained but likely resulted from prior period discrepancies.

The understatement of receipts resulted from the following:

• Transfers from non-federal accounts, not reported	\$ 51,500
• Erroneous deposit of non-federal funds, not reported	7,950
• Unexplained difference	<u>11,359</u>
<b>Understatement of Receipts</b>	<b><u>\$ 70,809</u></b>

CRFCC transferred non-federal funds of \$51,500 to its allocation account to pay for shared activity; however, it did not report these transfers.<sup>2</sup> Also, in December 2007, CRFCC erroneously deposited non-federal funds of \$7,950 into its federal operations account. Three weeks later, in January 2008, CRFCC transferred these funds back. CRFCC reported the transfer back; however, it did not report the initial deposit.

The understatement of disbursements resulted from the following:

• Disbursements, not reported	\$ 40,500
• Transfers to non-federal account, not reported	23,600
• Prior year payroll disbursements reported in error	(10,568)
• Disbursement reported not supported by check or debit	(585)
• Unexplained difference	<u>8,157</u>
<b>Net Understatement of Disbursements</b>	<b><u>\$ 61,104</u></b>

The \$9,145 understatement of the ending cash balance was the result of the misstatements described above.

#### **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed the misstatements for 2007 with a CRFCC representative during the exit conference and provided copies of relevant work papers detailing the errors. The representative stated that corrective action would be taken based on the audit recommendation. The CRFCC representative did not submit a response following the exit conference.

In the Interim Audit Report, the Audit staff recommended that CRFCC:

- amend its reports to correct the misstatements for 2007;
- amend its most recently filed report to correct the cash-on-hand balance with an explanation that the change resulted from a prior period audit adjustment; and
- reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may affect the adjustment recommended by the Audit staff.

#### **C. Committee Response to Interim Audit Report**

CRFCC did not submit a response to the Interim Audit Report. In addition, CRFCC did not comply with the Audit staff's recommendation to file amended disclosure reports to correct the misstatements. The Audit staff made several attempts to determine the reason for CRFCC's

<sup>2</sup> Under 11 CFR §106.7, state party committees are allowed to mix funds from their federal and non-federal operating accounts to pay for allocable expenses utilizing an allocation account. These accounts are considered federal accounts from which a committee must report all activity, including the non-federal portion.

noncompliance or failure to request an extended response period. During one attempt, a CRFCC representative stated that CRFCC's response had been sent by FedEx to the Audit staff. However, when shipping details (such as the tracking number) or an emailed copy of the response was requested, the representative could not comply.

## **Finding 2. Allocation of Expenditures**

### **Summary**

During audit fieldwork, a review of disbursements made for allocable activity indicated that CRFCC overfunded its share of non-federal activity by \$131,725. In addition, it appears that CRFCC paid \$19,000 out of its allocation account for 100% non-federal activity.

In the Interim Audit Report, the Audit staff recommended that CRFCC demonstrate that the non-federal accounts did not overfund their share of allocable activity and provide additional comments regarding the payment of non-federal activity from the allocation account. Absent such a demonstration, the Audit staff recommended that CRFCC reimburse the non-federal accounts \$131,725.

CRFCC did not submit a response to the Interim Audit Report. As such, CRFCC did not comply with the Audit staff's recommendation to demonstrate that the non-federal accounts did not overfund their share of allocable activity. In addition, CRFCC has not provided any documentation that demonstrates that the non-federal accounts were reimbursed.

### **Legal Standard**

**A. Paying for Allocable Expenses.** The Commission regulations offer party committees two ways to pay for shared federal/non-federal expenses.

- They may pay the entire amount of the shared expense from the federal account and transfer funds from the non-federal account to the federal account to cover the non-federal share of that expense; or
- They may establish a separate, federal allocation account into which the committee deposits funds from both its federal and non-federal accounts solely for the purpose of paying shared federal/non-federal expenses. 11 CFR §106.7(b).

**B. Disbursements from the Allocation Account.** Funds from federal and non-federal accounts must be deposited into the allocation account solely for the purpose of paying shared federal/non-federal expenses. 11 CFR §106.7(f)(1)(ii).

**C. Transfers.** Generally, a political committee may not transfer funds from its non-federal account to its federal account, except when the committee follows specific rules for paying for shared federal/non-federal expenses. 11 CFR §§102.5(a)(1)(i) and 106.5(g).

**D. Reporting Allocable Expenses.** A state, district or local committee that allocates federal/non-federal expenses must report each disbursement it makes from its federal account (or separate allocation account) to pay for a shared federal/non-federal expense. Committees report these kinds of disbursements on Schedule H-4 (Disbursements for Allocated Federal/Non-federal Activity). 11 CFR §104.17(b)(3).

## Facts and Analysis

### A. Facts

CRFCC maintained five federal bank accounts and three non-federal bank accounts during 2007 and 2008. CRFCC represented one of these federal accounts as an "allocation account." CRFCC paid shared federal and non-federal expenses from this account, but it also made disbursements for purely federal expenses, for purely non-federal expenses and for transfers to other federal and non-federal accounts. During the audit period, CRFCC transferred \$403,750 from non-federal accounts into the allocation account. As of December 31, 2008, CRFCC had disbursed all funds from this account.<sup>3</sup>

During audit fieldwork, the Audit staff calculated the non-federal share of expenditures required to be disclosed on Schedule H-4 and compared that to the amount transferred from non-federal accounts. The review indicated that the non-federal portion of shared activity was \$244,905 and CRFCC spent \$19,000 on purely non-federal activity. The following chart explains the calculation of overfunding by the non-federal accounts of \$131,725.

Net non-federal transfers to the allocation account	\$ 395,630 <sup>4</sup>
Non-federal portion of allocable expenses	(244,905)
100% non-federal expenditures	<u>(19,000)</u>
<b>Net Overfunding of Non-federal Funds</b>	<b><u>\$131,725</u></b>

This net overfunding amount does not include the impermissible non-federal activity paid out of the allocation account (\$19,000). A committee is prohibited from transferring funds from a non-federal account to reimburse a federal account for non-allocable activity. Per 11 CFR §106.7(f)(1)(ii), funds must be transferred to the allocation account solely for the purpose of paying shared federal/non-federal expenses.

### B. Interim Audit Report & Audit Division Recommendation

When the Audit staff presented the overfunding during pre-audit and fieldwork, CRFCC representatives offered no explanations. At the exit conference, the Audit staff further discussed the overfunding with a CRFCC representative and provided spreadsheets outlining the calculation of the overfunding and solely non-federal expenditures paid from the allocation account. The CRFCC representative did not submit a response to the matters presented at the exit conference.

In the Interim Audit Report, the Audit staff recommended that CRFCC demonstrate that the non-federal accounts did not overfund their share of allocable expenses (\$131,725), and that CRFCC did not pay for non-federal activity (\$19,000) out of the allocation account. Absent such a demonstration, the Audit staff recommended that CRFCC reimburse the non-federal account \$131,725 and provide additional comments with respect to the \$19,000 in 100% non-federal expenditures from the allocation account.

<sup>3</sup> Per CRFCC's bank statements, the allocation account balance was -\$4,877 at December 31, 2008.

<sup>4</sup> Net non-federal transfers to the allocation account consist of total transfers to the allocation account from non-federal accounts (\$403,750) less transfers from the allocation account to non-federal accounts (\$8,120).

**C. Committee Response to Interim Audit Report**

CRFCC did not submit a response to the Interim Audit Report. As such, CRFCC has not demonstrated that the non-federal account did not overfund its share of allowable activity. In addition, no documentation has been provided that demonstrates that the non-federal accounts have been reimbursed \$131,725.