



Final Audit Report of the Commission on the Democratic Party of Orange County FED PAC

(January 1, 2007 - December 31, 2008)

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 Democratic Party of Orange County FED PAC (DPOC) is a local party committee, located in Santa Ana, California². For more information, see the chart on Committee Organization, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 334,560
○ Contributions from Political Committees	31,737
○ Loans Received	13,000
○ Offsets to Expenditures	3,525
○ Transfers from Non-Federal Funds	202,684
○ Transfers from Levin Funds	4992
Total Receipts	\$ 590,498
• Disbursements	
○ Operating Expenditures	\$ 503,938
○ Transfers to Affiliated Committees	45,483
○ Contributions to Political Committees	6,702
○ Independent Expenditures	21,529
○ Loan Repayments	7,750
○ Contribution Refunds	806
○ Other Disbursements	1,020
○ Federal Election Activity	11,118
Total Disbursements	\$ 598,346

Commission Findings (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Untimely Deposit of Receipts (Finding 2)

¹ 2 U.S.C. §438(b).

² Although the Statement of Organization lists the Treasurer's Burbank, California office address as DPOC's address, the committee is headquartered in Santa Ana, California.

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Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Limitations	1
Audit Hearing	1
Part II. Overview of Committee	
Committee Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Commission Findings	3
Part IV. Commission Findings	
Finding 1. Misstatement of Financial Activity	4
Finding 2. Untimely Deposit of Receipts	6

Part I

Background

Authority for Audit

This report is based on an audit of the Democratic Party of Orange County FED PAC (DPOC), 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 consistency between reported figures and bank records;
4. the completeness of records;
5. the disclosure of independent expenditures; and
6. other committee operations necessary to the review.

Limitations

The treasurer of DPOC operates an accounting firm that handles DPOC's accounting, recordkeeping and reporting. The firm also acts as DPOC's credit card processor. The same credit card merchant account is used to process contributions for DPOC and a number of other clients. The Audit staff did not have access to complete records for this account and therefore was limited in its ability to verify the proper accounting of transactions relating to the account.

Audit Hearing

DPOC declined the opportunity for an audit hearing.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	August 19, 1996
• Audit Coverage	January 1, 2007 – December 31, 2008
Headquarters	
Santa Ana, California	
Bank Information	
• Bank Depositories	One
• Bank Accounts	Five (2 Federal, 1 Levin, 2 Non-Federal)
Treasurer	
• Treasurer When Audit Was Conducted	Kinde Durkee (May 15, 2007 – April 20, 2011)
• Treasurer During Period Covered by Audit	Florice Hoffman (through May 15, 2007) Kinde Durkee (May 15, 2007 – April 20, 2011)
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, 2007	\$ 12,785
Receipts	
o Contributions from Individuals	334,560
o Contributions from Political Committees	31,737
o Loans Received	13,000
o Offsets to Expenditures	3,525
o Transfers from Non-Federal Funds	202,684
o Transfers from Levin Funds	4,992
Total Receipts	\$ 590,498
Disbursements	
o Operating Expenditures	503,938
o Transfers to Affiliated Committees	45,483
o Contributions to Political Committees	6,702
o Independent Expenditures	21,529
o Loan Repayments	7,750
o Contribution Refunds	806
o Other Disbursements	1,020
o Federal Election Activity	11,118
Total Disbursements	\$ 598,346
Cash-on-hand @ December 31, 2008	\$ 4,937

Part III

Summaries

Commission Findings

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of DPOC's reported figures to bank records indicated that receipts and disbursements were understated by \$13,110 and \$13,057 in 2007 and by \$33,394 and \$32,806 in 2008. In response to the Interim Audit Report recommendation, DPOC amended its reports to materially correct these misstatements.

The Commission approved the finding that DPOC misstated its financial activity for calendar years 2007 and 2008.

(For more detail, see p. 4)

Finding 2. Untimely Deposit of Receipts

Audit fieldwork indicated that DPOC failed to deposit, within 10 days of receipt, 58 percent of the contributions received during the 2008 election cycle. The delays in depositing these contributions averaged 41 days. The Audit staff recommended that DPOC provide evidence showing that the deposits in question were deposited timely or submit any additional comments relevant to this finding. In response to the Interim Audit Report, a DPOC representative restated the cause of the deposit delays and made assurances that the changes made since the audit will prevent this problem from recurring.

The Commission approved the finding that DPOC failed to deposit timely, contributions from individuals.

(For more detail, see p. 6)

Part IV

Commission Findings

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of DPOC's reported figures to bank records indicated that receipts and disbursements were understated by \$13,110 and \$13,057 in 2007 and by \$33,394 and \$32,806 in 2008. In response to the Interim Audit Report recommendation, DPOC amended its reports to materially correct these misstatements. The Commission approved the finding that DPOC misstated its financial activity for calendar years 2007 and 2008.

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

During audit fieldwork, a reconciliation of DPOC's reported financial activity with bank records for 2007 and 2008 indicated that cash on hand, receipts and disbursements were misstated in both years. The following charts outline the discrepancies for both years and provide explanations for the misstated activity.

2007 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash	\$12,827	\$12,785	\$(42) Overstated
Receipts	\$311,632	\$324,742	\$13,110 Understated
Disbursements	\$292,185	\$305,242	\$13,057 Understated
Ending Cash	\$32,274	\$32,285	\$11 Understated

The understatement of receipts was the result of the following:

• Unreported receipts	\$ 12,113
• Unexplained difference	<u>997</u>
Understatement of Receipts	\$ 13,110

The understatement of disbursements was the result of the following:

• Unreported transfers to non-federal accounts	\$ 12,113
• Unreported miscellaneous expenses	700
• Unexplained difference	<u>244</u>
Understatement of Disbursements	\$ 13,057

The majority of the unreported receipts and disbursements, noted above, occurred between August 22 and December 22, 2007. During that time DPOC made deposits of individual contributions totaling \$10,265 into its federal account that were intended for the non-federal account. Neither the deposits nor the transfers to the non-federal account were reported. The balance, \$1,848 (\$12,113-\$10,265), was a transfer received from the non-federal account on January 30 and returned on March 8.

2008 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash	\$32,274	\$32,285	\$11 Understated
Receipts	\$232,362	\$265,756	\$33,394 Understated
Disbursements	\$260,298	\$293,104	\$32,806 Understated
Ending Cash	\$4,338	\$4,937	\$599 Understated

The understatement of receipts was the result of the following:

• Unreported receipts	\$ 33,370
• Unexplained difference	<u>24</u>
Understatement of Receipts	\$ 33,394

The understatement of disbursements was the result of the following:

• Unreported transfers to non-federal accounts	\$ 33,370
• Unexplained difference	<u>(564)</u>
Net Understatement of Disbursements	\$ 32,806

Between January 2 and February 13, 2008, DPOC made 22 deposits of contributions, totaling \$32,030, into its federal account that were intended for the non-federal account. In July, an additional \$1,340 was deposited into the federal account that was intended for the non-federal account. DPOC did not report the deposits or the transfers to the non-federal account.

During audit fieldwork, DPOC representatives inquired as to whether they were required to report deposit errors made and corrected within a reporting period. The Audit staff noted that DPOC did not correct all of the errors within a reporting period. Further, DPOC representatives were informed that the numerous occurrences

indicated a systemic problem and that political committees are required to report all receipts and disbursements. DPOC representatives described the 2008 deposits of non-federal funds to the federal account as errors; and stated that once identified and corrected, the errors were not repeated.

DPOC misstated cash balances throughout 2007 and 2008 due to the errors outlined above and unknown adjustments from prior reporting periods. On December 31, 2008, the cash balance was understated by \$599.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, Audit staff restated the misstatements previously discussed and received no additional comments from DPOC representatives.

The Interim Audit Report recommended that DPOC:

- Amend its reports to correct the misstatements for 2007 and 2008 as noted above; and,
- 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. Further, DPOC should 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

In response to the Interim Audit Report recommendation, DPOC amended its reports to materially correct the misstatements noted above.

D. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff acknowledged that DPOC amended its reports to materially correct the misstatements presented in the Interim Audit Report.

Commission Conclusion

On September 1, 2011, the Commission considered the Audit Division Recommendation Memorandum in which the Audit Division recommended that the Commission adopt a finding that DPOC misstated its financial activity for calendar years 2007 and 2008.

The Commission approved the finding that DPOC misstated its financial activity for calendar years 2007 and 2008.

Finding 2. Untimely Deposit of Receipts

Summary

Audit fieldwork indicated that DPOC failed to deposit, within 10 days of receipt, 58 percent of the contributions received during the 2008 election cycle. The delays in depositing these contributions averaged 41 days. The Audit staff recommended that DPOC provide evidence showing that the deposits in question were deposited timely or submit any additional comments relevant to this finding. In response to the Interim Audit Report, a DPOC representative restated the cause of the deposit delays and made assurances that the changes made since the audit will prevent this problem from recurring. The Commission approved the finding that DPOC failed to deposit timely, contributions from individuals.

Legal Standard

Timing of Deposits. A treasurer of a political committee is responsible for making deposits of contributions. These deposits must be made within 10 days of the receipt of the contribution. 11 CFR 103.3(a).

Facts and Analysis

A. Facts

During audit fieldwork, the reconciliation of DPOC's bank activity identified a number of deposits in transit at the end of calendar year 2007. Of the 29 deposits held to be in transit, 24 consisted of contributions received prior to December 2007 and only one of the 29 was deposited within the required 10 days.

A review of all deposits into DPOC's federal account indicated that 230 of 430 contribution deposits were made more than 10 days following the contribution's receipt.³ On average, the time between receipt and deposit for the late deposits was 41 days, ranging from 11 to 281 days.⁴ Contributions deposited untimely totaled \$213,960 or approximately 58% of the contributions deposited.

There was a greater delay for the deposit of contributions made by credit card than for those made by check. For the late credit card deposits, the average delay between receipt and deposit was 57 days, while the average delay for check batches was 17 days.

³ Since DPOC did not maintain a record showing the actual date a contribution was received, the Audit staff used the dates the batches were recorded in DPOC's accounting records. These dates coincided with the date written on deposit batch preparation sheets. Generally, the checks in the batches were dated a few days prior to the preparation date. The underlying presumption was that to be able to prepare the deposits, DPOC must have the contributions in hand.

⁴ Excluded from this calculation is a March 6, 2006 deposit in transit, which could not be traced to DPOC's bank account, but based on DPOC bank reconciliations, was deposited sometime in March 2008. The time between receipt and deposit may have been in excess of two years.

DPOC's Treasurer, at the time, discussed this problem in some detail in a written response to questions raised during audit fieldwork:

Merchant services accounts are normally linked to the individual client bank account. Unfortunately, there were inconsistencies while establishing the merchant services account for DPOC and the account was never properly activated. Several months' worth of activity showed the credit card contribution deposits were not properly posting to the Committee bank account. It was eventually discovered that the funds were being held in a standard non-interest bearing checking account established for merchant services hosted by Durkee & Associates. In order to rectify the situation we immediately began to verify each credit card transaction. As soon as all credit card transactions were accounted for, the net total of each credit card batch was transferred into the Committee bank account. In some instances, the transfer checks were voided and re-issued due to a declined credit card or a chargeback within the original batch. This was a lengthy process, but as of the present date, all credit card transactions have been verified and all funds have been transferred properly.

The check deposit delays were due to new office procedures. During this time, we established an in-office e-scanner to process check deposits through our bank. The e-scanner was new technology our bank was testing. This technology placed a check scanner and computer software in our office that allowed us to process deposits in the same manner as a bank teller processes deposits at a bank branch. We agreed to participate in the process as a means for our clients to save courier fees and to allow them to have the benefit of instant credit of deposits. Unfortunately, there were many discrepancies and processing malfunctions which we were not prepared to handle. As a result, many of our deposits were not properly processed and therefore did not settle timely.

It should be noted that we have strict internal controls in place to avoid these types of situations in the future.

The Audit staff notes that it is not clear why this deposit delay problem was not identified and resolved more quickly, since the Treasurer's company, Durkee and Associates, both processed DPOC's credit card contributions⁵ and regularly reconciled its bank accounts. The delays for the credit card deposits spanned the entire election cycle, although the average time between contribution receipt and deposit in 2008 declined to 35 days from 47 days in 2007. The deposit of checks processed with the new technology may have been the cause of some deposit delays, but this does not explain the late deposits prior to the adoption of the system in December 2007, nor does it explain why six of 13 check deposit batches from December 2008 were late.

⁵ Durkee and Associates handles accounting and reporting for a number of political clients, many of which had the same treasurer as DPOC, and used a shared credit card merchant account.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, Audit staff restated the issues discussed previously and DPOC representatives did not comment. The Interim Audit Report recommended that DPOC provide evidence showing the deposits in question were deposited timely or submit any additional comments relevant to this finding.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report, a DPOC representative restated the position previously presented at the close of audit fieldwork and assured that this problem will not recur.

D. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff acknowledged that a DPOC representative restated their position to this matter with assurances that this problem would not recur.

Commission Conclusion

On September 1, 2011, the Commission considered the Audit Division Recommendation Memorandum in which the Audit Division recommended that the Commission adopt a finding that DPOC failed to deposit timely, contributions from individuals.

The Commission approved the finding that DPOC failed to deposit timely, contributions from individuals.