



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 13, 2013

MEMORANDUM

To: The Commission

Through: Alec Palmer
Staff Director

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Subject: Audit Division Recommendation Memorandum on the North Dakota
Republican Party (NDRP) (A11-11)

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

A. Misstatement of Financial Activity – 2009 and 2010

In response to the Interim Audit Report (IAR) recommendation, NDRP filed amended disclosure reports for 2009 and 2010. However, these amendments did not materially correct the receipt or disbursement misstatements in either of the years. Subsequently, NDRP filed a second set of amended disclosure reports that only materially corrected the misstatement of 2010 receipts. Receipts and disbursements for 2009 and disbursements for 2010 remain misstated.

In response to the DFAR, NDRP filed amended disclosure reports for 2009 and 2010. These amendments materially complied with the IAR recommendation.

The Audit staff recommends that the Commission find that NDRP misstated the beginning cash-on-hand balance in 2009 and receipts and disbursements in 2009 and 2010 on the most recent reports filed as of audit notification.

B. Misstatement of Financial Activity – Increased Activity

NDRP did not submit any additional information or written comments regarding this matter in its response to the IAR recommendation or the DFAR.

The Audit staff recommends that the Commission find that NDRP filed original disclosure reports for 2009 and 2010 that materially understated its disbursements.

Finding 2. Reporting of Debts and Obligations

In response to the IAR recommendation, NDRP filed amended reports that disclosed the debts and obligations. NDRP did not submit any additional information or written comments regarding this matter in response to the DFAR.

The Audit staff recommends that the Commission find that NDRP failed to disclose debts and obligations totaling \$235,563.

The Committee did not request an audit hearing.

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 Brande Wheeler or Kendrick Smith at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on the North Dakota Republican Party

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the North Dakota Republican Party (January 1, 2009 - December 31, 2010)

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 complies with the Act's provisions, prohibits disclosure of certain information 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

The North Dakota Republican Party is a state party committee headquartered in Bismarck, North Dakota. For more information, see the chapter on the Committee Organization, p. 2.

Financial Activity (p. 2)

Receipts	
o Contributions from Individuals	\$ 1,322,913
o Contributions from Political Committees	41,050
o Transfers from Affiliates	175,358
o Interest Received	10,325
o Interest from Non-Related Accounts	114,818
o Other Receipts	61,906
Total Receipts	\$ 1,726,370
Disbursements	
o Operating Expenditures	\$ 1,424,962
o Transfers to Affiliates	23,536
o Repayments Made	51,646
o Federal Election Activity	212,263
o Other Disbursements	5,075
Total Disbursements	\$ 1,717,482

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Reporting of Debts and Obligations (Finding 2)

¹ 2 U.S.C. §438(b).

² Formerly known as the North Dakota State Republican Committee.

Draft Final Audit Report of the Audit Division on the North Dakota Republican Party

(January 1, 2009 - December 31, 2010)



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Part I Background

Authority for Audit

This report is based on an audit of the North Dakota Republican Party (NDRP), 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 whether 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 Division evaluated various risk factors and as a result, this audit examined:

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

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	April 17, 1972
• Audit Coverage	January 1, 2009 - December 31, 2010
Headquarters	
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Nine Federal; Four Non-Federal
Treasurer	
• Treasurer When Audit Was Conducted	Robert Harms
• Treasurer During Period Covered by Audit	Theresa Lokach 1/1/09 - 7/12/10 Robert Harms 7/13/09 - present
Management Information	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paula Harms

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2009	\$ 2,151
Receipts	
o Contributions from Individuals	1,322,913
o Contributions from Political Committees	41,050
o Transfers from Affiliates	175,358
o Loans Received	10,525
o Transfers from Non-federal Accounts	114,818
o Other Federal Receipts	61,906
Total Receipts	\$1,726,370
Disbursements	
o Operating Expenditures	1,424,962
o Transfers to Affiliates	23,536
o Loan Repayments Made	51,646
o Federal Election Activity	212,263
o Other Disbursements	5,075
Total Disbursements	\$1,717,482
Cash-on-hand @ December 31, 2010	\$ 11,039

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of NDRP's reported financial activity with its bank records revealed a misstatement of the beginning cash-on-hand balance in 2009 and receipts and disbursements in 2009 and 2010. For 2009, NDRP overstated its beginning cash-on-hand balance by \$13,345 and understated receipts and disbursements by \$21,955 and \$17,282, respectively. In 2010, NDRP understated receipts and disbursements by \$159,262 and \$222,982, respectively.

In addition, NDRP filed original reports for 2009 and 2010 that were materially understated. Specifically, NDRP's original reports understated disbursements by \$657,482 in 2009 and 2010. Amended reports filed prior to the notification of this audit did not correct the misstated disbursement activity.

In response to the Interim Audit Report recommendation, NDRP attempted to correct the public record by filing amended disbursement reports. However, the amendments only materially corrected receipts for 2010. Receipts for 2009 and disbursements for 2009 and 2010 remain misstated.

Regarding the understated disbursement activity on NDRP's original reports, NDRP did not submit any comments on the matter. (For more detail, see p. 4.)

Finding 2. Reporting of Debts and Obligations

Audit fieldwork indicated that NDRP did not disclose debts and obligations for nine vendors, totaling \$235,563, on Schedule D (Debts and Obligations) of its disclosure reports. In response to the Interim Audit Report recommendation, NDRP filed amended reports to disclose these debts and obligations. (For more detail, see p. 7.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of NDRP's reported financial activity with its bank records revealed a misstatement of the beginning cash-on-hand balance in 2009 and receipts and disbursements in 2009 and 2010. For 2009, NDRP overstated its beginning cash-on-hand balance by \$13,345 and understated receipts and disbursements by \$21,935 and \$17,282, respectively. In 2010, NDRP understated receipts and disbursements by \$159,262 and \$222,982, respectively.

In addition, NDRP filed original reports for 2009 and 2010 that were materially understated. Specifically, NDRP's original reports understated disbursements by \$657,482 in 2009 and 2010. Amended reports filed prior to the notification of this audit did not correct the misstated disbursement activity.

In response to the Interim Audit Report recommendation, NDRP attempted to correct the public record by filing amended on-line reports. However, the amendments only materially corrected receipts for 2010. Receipts for 2009 and disbursements for 2009 and 2010 remain misstated.

Regarding the understated disbursement activity on NDRP's original reports, NDRP did not submit any comments on the matter.

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 election cycle;
- the total amount of disbursements for the reporting period and for the election cycle; 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).

³ On average, NDRP filed four amended reports per reporting period. There were seven reporting periods during 2010 in which NDRP filed six or more amendments for the reporting period.

Facts and Analysis

A. Misstatement of Financial Activity – 2009 and 2010

1. Facts

As part of this audit, the Audit staff reconciled NDRP's reported financial activity with its bank records for 2009 and 2010. The following charts outline the discrepancies between NDRP's disclosure reports and its bank records. Succeeding paragraphs explain why the discrepancies occurred.

2009 Committee Activity			
	Reported	Bank Record	Discrepancy
Beginning Cash-on-Hand @ January 1, 2009	\$15,496	\$2,151	\$13,345 Overstated
Receipts	\$563,007	\$584,942	(\$21,935) Understated
Disbursements	\$497,890	\$515,172	(\$17,282) Understated
Ending Cash-on-Hand @ December 31, 2009	\$80,613	\$88,692	\$8,692 Overstated

The overstatement of beginning cash-on-hand of \$13,345 likely resulted from prior-period discrepancies.

The understatement in receipts resulted from the following.

• Transfers from non-federal account, not reported ⁴	\$ 94,500
• Non-federal receipts reported in error ⁵	(85,230)
• Receipts not reported	12,811
• Unexplained difference	<u>(146)</u>
Net Understatement of Receipts	\$ 21,935

The understatement in disbursements resulted from the following.

• Debits and charges that cleared the bank, not reported	\$ 25,492
• Reported disbursements that did not clear bank accounts	(8,629)
• Unexplained difference	<u>419</u>
Net Understatement of Disbursements	\$ 17,282

The misstatements described above resulted in the overstatement of ending cash-on-hand by \$8,692.

⁴ In July 2009, NDRP failed to disclose two transfers (\$60,000 and \$34,500) from its non-federal account to its federal account.

⁵ These receipts consist of individual (\$83,865) and PAC (\$1,365) non-federal contributions that NDRP deposited into a non-federal account but mistakenly included in its disclosure reports.

2010 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash-on-Hand @ January 1, 2010	\$80,613	\$71,921	\$8,692 overstated
Receipts	\$982,166	\$1,141,428	(\$159,262) understated
Disbursements	\$979,328	\$1,202,310	(\$222,982) understated
Ending Cash-on-Hand @ December 31, 2010	\$83,451	\$11,039	\$72,412 overstated

The understatement in receipts resulted from the following:

• Transfers from non-federal account, not reported	\$ 20,318
• Republican National Committee transfers, not reported	79,400
• Non-federal political action committee contributions reported in error	1,050
• Bank interest received, not reported	236
• Unexplained difference	61,358
Net Understatement of Receipts	\$ 159,262

The understatement in disbursements resulted from the following:

• Media and operating disbursements, not reported	\$ 244,047
• Transfers to non-federal accounts, not reported	20,475
• Inter-account transfers, not reported in error ⁷	(37,151)
• In-kind contributions, not reported	7,448
• Disbursement reported twice	(7,936)
• Unexplained difference	(3,901)
Net Understatement of Disbursements	\$ 222,982

The misstatements described above resulted in the overstatement of ending cash-on-hand by \$72,412.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatements for 2009 and 2010 with NDRP representatives during the exit conference and provided copies of relevant work papers detailing the misstatements. The representatives asked questions and made comments regarding the reconciling adjustments presented and stated that the necessary amended reports would be filed in response to the Interim Audit Report.

The Interim Audit Report recommended that NDRP amend its disclosure reports to correct the misstatements noted above and reconcile the cash-on-hand balance on its most recent report to identify any subsequent discrepancies that may have

⁶ These disbursements consist of media (\$109,722), operating (\$124,511) and merchant fee (\$9,814) payments that cleared the bank account but were not reported by NDRP in its disclosure reports.

⁷ NDRP mistakenly included these inter-account transfers in its disclosure reports as operating expenditures.

affected the recommended adjustments. Further, NDRP was to adjust the cash-on-hand balance as necessary on its most recent report, noting that the adjustment was the result of prior-period audit adjustments.

3. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, NDRP filed amended disclosure reports for 2009 and 2010. However, these amendments did not materially correct the receipt or disbursement misstatements. To assist NDRP with correcting the public record, the Audit staff thoroughly discussed the adjustments needed to materially correct the reports for both years. NDRP filed a second set of amended reports. However, these reports only materially corrected receipts for 2010. Receipts for 2009 and disbursements for 2009 and 2010 remain misstated. As such, NDRP has not fully complied with the Interim Audit Report recommendation.

B. Misstatement of Financial Activity – Increased Activity

1. Facts

In addition to examining NDRP's most recent reports filed prior to the audit notification, the Audit staff compared NDRP's reports filed with bank records and discovered a \$657,482 understatement of disbursements over the two-year period (2009 and 2010)⁸. As noted in the chart above, the latest amendments filed prior to this audit also included a net understatement of disbursements totaling \$240,264 (\$17,282 in 2009 plus \$222,982 in 2010). Therefore, the latest amendments filed prior to this audit did not correct all of the understated disbursements over the two-year period.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the understatement of disbursements on its original report filed with NDRP representatives during the exit conference and provided copies of relevant work papers detailing the disbursements not reported. The representatives had no specific comments at the time.

The Interim Audit Report recommended that NDRP submit any additional information or written comments it considered relevant to this matter.

3. Committee Response to the Interim Audit Report

NDRP did not submit any additional information or written comments regarding this matter in its response to the Interim Audit Report recommendation.

Finding 2. Reporting of Debts and Obligations

Summary

Audit fieldwork indicated that NDRP did not disclose debts and obligations for nine vendors totaling \$235,563 on Schedule D (Debts and Obligations) of its disclosure

⁸ This figure includes the \$17,282 and \$222,982 understatement of disbursements from 2009 and 2010, respectively, discussed in Section A (Misstatement of Financial Activity – 2009 and 2010).

reports. In response to the Interim Audit Report recommendation, NDRP filed amended reports to disclose these 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. 2 U.S.C. §434(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 and to the committee 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.

- Once it has been outstanding 60 days from the date incurred, a debt of \$500 or less must be reported 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).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed NDRP's disbursement records and disclosure reports for proper reporting of debts and obligations. NDRP reported no debt during the audit period; however, the review identified debts totaling \$235,563⁹ owed to nine vendors that NDRP should have disclosed on Schedule D. Based on the records, these vendors provided the following services: telephone, printing and direct mail services. Most of the identified debts were over \$500, and all remained outstanding during the reporting period in which they were incurred.

B. Interim Audit Report & Audit Division Recommendation

At the audit conference, the Audit staff discussed the reporting of debts and obligations with NDRP representatives and provided a schedule detailing the transactions that required disclosure. The representatives asked general questions about the disclosure requirements for debts, specifically, when and how debts and obligations are disclosed. Audit staff referred NDRP to the regulations at 11 CFR §104.11(b) for guidance on itemizing debts and obligations and subsequently forwarded copies of Schedule D and its instructions to NDRP representatives.

The Interim Audit Report recommended that NDRP amend its reports to disclose debts and obligations of \$235,563 on Schedule D.

⁹ Each debt in this amount was counted once even if it required disclosure over multiple periods. In order for NDRP to file amended reports correctly, the Audit staff provided schedules that included the amount of each debt required to be reported for each reporting period.

C. Committee Response to the Interim Audit Report

In response to the Interim Audit Report recommendation, NDRP filed amended reports that correctly disclosed the debts and obligations.