

A R I S T O T L E

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205 Pennsylvania Avenue, S.E.
Washington, D.C. 20003

April 27, 2012

Thomas Hintermister
Assistant Staff Director
Audit Division
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Cc: Commission Secretary

Re: Washington State Republican Committee Response to Draft Final Audit Report
Request for Hearing

Dear Mr. Hintermister:

The Washington State Republican Committee (WSRP) offers this response to the Draft Final Audit Report provided to the Committee and requests a hearing before the Commission to present legal arguments concerning the proposed finding regarding misstatement of financial activity.

Background

The proposed finding on Financial Activity includes a \$43,920.85 disbursement from WSRP's Federal account on August 5, 2010 and a transfer of an identical amount from its non-Federal to its Federal account on August 12, 2010 that were not initially reported. This payment was for state legislative campaign activity (100% non-Federal). The payment was mistakenly made from the Federal account and the error was discovered and rectified in one week. While WSRP amended its reports to disclose these transactions, WSRP does not believe these transactions should be included in the finding regarding misstatement of financial activity.

A combination of Federal and Washington law effectively require WSRP to maintain four separate accounts (Federal, Levin, State Exempt, and State Non-Exempt). Occasionally, especially in the midst of a busy election season, a payment is made or a receipt deposited into an incorrect account. On the receipt side, WSRP performs a daily reconciliation that normally resolves receipt characterizations at the end of each business day. Disbursements are reviewed weekly at a minimum.

In light of this regulatory complexity, WSRP believes there should be room to correct clerical errors in deposit or payment processing. The Audit Division's finding currently counts this error against WSRP twice: first as an unreported disbursement, and second as an unreported receipt (transfer) from the state account. While this accounting presents a technically correct picture of WSRP's bank account activity, it presents a substantively misleading picture of WSRP's Federal and non-Federal activity. WSRP believes these transactions should be excluded from the finding regarding misstatement of financial activity.

Issue Presented

The audit division's position appears to be that every transaction in a political committee's (Federal) bank account must appear on the committee's FEC report, even if the transactions were obvious and quickly rectified errors. WSRP believes that simple payment errors corrected within a reporting period should not be required to be reported.

Analysis

In the analogous context of correcting mistaken deposits the audit division itself appears to have acknowledged that a reasonable cure period for simple banking errors is appropriate. The Final Audit Report for the Democratic Party of Orange County FED PAC (September 29, 2011) notes:

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.

This statement implies that errors corrected within the reporting period might not require reporting.¹ That is precisely the situation of this transaction by WSRP.

¹ The DPOC report goes on to note that not all errors by that committee were corrected within the same reporting period and the number of occurrences indicated a systemic problem. In WSRP's case the error was corrected in the same reporting period and this type of error occurred one time only.

In the Final Audit Report on the Georgia Federal Elections Committee (August 15, 2011) the Commission failed to adopt a recommended finding that the Georgia Committee should have reported non-Federal disbursements from a payroll account. This is another instance where the Commission refused to apply an "every account entry" reporting requirement. Commissioners who supported the proposed finding in the Georgia audit need not concede that ongoing activity from a shared account is exempt from reporting to conclude in this case that a one-time error should be exempt.

In at least one circumstance, the Commission explicitly approves excluding offsetting transactions within a single reporting period from FEC reports. In discussing reporting requirements for bounced checks, the Commission's Campaign Guide for Party Committees (page 77, 2009) states: "Checks received and returned by the bank in the same reporting period do not need to be reported." WSRP believes that a similar offsetting transaction rule should apply to disbursement errors where an offsetting transaction corrects the error within the same reporting period.

Conclusion

WSRP believes that political committees maintaining Federal and non-Federal accounts should be permitted to correct deposit or payment errors between the accounts within a reporting period without a requirement to report the offsetting account transactions. Requiring reporting of simple and rapidly corrected banking errors serves no public purpose, and, indeed, would present a misleading picture of a committee's political activity. WSRP asks that the proposed findings regarding understatements of receipts and disbursements each be reduced by \$43,921 to exclude these offsetting transactions.

Sincerely,

David M. Mason

David M. Mason
Senior Vice President, Compliance Services
Aristotle International
for Washington State Republican Committee