



FEDERAL ELECTION COMMISSION
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June 18, 2014

MEMORANDUM

To: The Commission

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Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

for Thomas E. Hintermister *MLF*
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Audit Division

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By: for Rosa Crussiah *RC*
Lead Auditor

Subject: Audit Division Recommendation Memorandum on Buddy Roemer for
President, Inc. (BRFP)

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. Net Outstanding Campaign Obligations

The Audit staff's review of BRFP's financial activity through March 31, 2014¹, and estimated winding down costs indicated that the Candidate did not receive matching fund payments in excess of his entitlement. In response to both the

¹ BRFP filed a Termination Report on January 4, 2014, which disclosed an ending cash-on-hand balance of \$0. On April 9, 2014, BRFP filed another Termination Report which disclosed a cash-on-hand balance of \$0 and no receipts or disbursements. The Audit staff has notified BRFP that the committee must continue to file all required reports until notified by the Commission that their request to terminate has been approved.

Preliminary Audit Report (PAR) and the DFAR, BRFP provided no further comment.

The Audit staff recommends that the Commission find that the Candidate did not receive matching funds in excess of his entitlement.

Finding 2. Reporting of Debts and Obligations

The Audit staff identified debts totaling \$42,097 that were not disclosed on Schedule D-P (Debts and Obligations), as required. Subsequent to the exit conference BRFP clarified the public record with respect to these debts. In response to both the PAR and the DFAR, BRFP provided no further comment.

The Audit staff recommends that the Commission find that BRFP failed to disclose debts and obligations totaling \$42,097.

BRFP 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 Rosa Crussiah or Alex Boniewicz at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on Buddy Roemer for President, Inc.

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on Buddy Roemer for President, Inc.

(February 28, 2011 – December 31, 2013)

Why the Audit Was Done

Federal law requires the Commission to audit every political committee established by a candidate who receives public funds for the primary campaign.¹ The audit determines whether the candidate was entitled to all of the matching funds received, whether the campaign used the matching funds in accordance with the law, whether the candidate is entitled to additional matching funds, and whether the campaign otherwise complied with the limitations, prohibitions, and disclosure requirements of the election law.

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 Campaign (p. 2)

Buddy Roemer for President, Inc. is the principal campaign committee for Charles E. Roemer III, a candidate for the Reform Party's² nomination for the office of President of the United States. The Committee is headquartered in Newport, Kentucky. For more information, see the chart on the Campaign Organization, p. 2.

Financial Activity (p. 3)

• Receipts

○ Contributions from Individuals	\$ 374,937
○ Matching Funds Received	351,961
○ Contributions from the Candidate	25,100
○ Loans from the Candidate	24,900
○ Offsets to Operating Expenditures	3,997
Total Receipts	\$ 780,895

• Disbursements

○ Operating Expenditures	\$ 671,827
○ Loan Repayments	4,900
○ Contribution Refunds	30,412
Total Disbursements	\$ 707,139

Findings and Recommendations (p. 4)

- Finding 1. Net Outstanding Campaign Obligations
- Finding 2. Reporting of Debts and Obligations

¹ 26 U.S.C. §9038(a).

² Buddy Roemer (the Candidate) originally was affiliated with the Republican Party and changed party affiliation during the audit period.

³ Financial Activity audited from February 28, 2011 through July 31, 2012; limited review thereafter.

Draft Final Audit Report of the Audit Division on Buddy Roemer for President, Inc.

(February 28, 2011 – December 31, 2013)

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Part I Background

Authority for Audit

This report is based on an audit of Buddy Roemer for President, Inc. (BRFP), undertaken by the Audit Division of the Federal Election Commission (the Commission) as mandated by Section 9038(a) of Title 26 of the United States Code. That section states, "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received [matching] payments under section 9037." Also, Section 9039(b) of the United States Code and Section 9038(a)(2) of the Commission's Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

Scope of Audit

This audit examined:

1. the campaign's compliance with limitations for contributions and loans;
2. the campaign's compliance with limitations for candidate contributions and loans;
3. the campaign's compliance with the prohibition on accepting prohibited contributions;
4. the disclosure of contributions and loans received;
5. the disclosure of disbursements, debts and obligations;
6. the consistency between reported figures and bank records;
7. the accuracy of the Statement of Net Outstanding Campaign Obligations;
8. the campaign's compliance with spending limitations;
9. the completeness of records; and
10. other campaign operations necessary to the review.

Inventory of Campaign Records

The Audit staff routinely conducts an inventory of campaign records before it begins audit fieldwork. BRFP's records were materially complete and fieldwork commenced thereafter.

Part II Overview of Campaign

Campaign Organization

Important Dates	
• Date of Registration	March 3, 2011
• Eligibility Period ⁴	February 3, 2012 – May 31, 2012
• Audit Coverage ⁵	February 28, 2011 – December 31, 2013
Headquarters	
Newport, Kentucky	
Bank Information	
• Bank Depositories	One
• Bank Accounts	Two checking accounts
Treasurer	
• Treasurer When Audit Was Conducted	Taunton Melville
• Treasurer During Period Covered by Audit	Taunton Melville
Management Information	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Volunteer and Paid Staff

⁴ On December 29, 2011, the Candidate submitted a signed letter to the Commission seeking to become eligible to receive Presidential primary matching funds and agreeing that he and his authorized committee would comply with the conditions set forth in 11 CFR §9033.1(b). A threshold submission was submitted on December 30, 2011, and the Commission certified the Candidate as eligible to receive matching funds on February 3, 2012. The period during which the Candidate was eligible for matching funds ended on May 31, 2012, the date of ineligibility.

⁵ The Audit staff conducted limited reviews of receipts and expenditures after July 31, 2012, to determine whether the Candidate was eligible to receive additional matching funds.

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ February 28, 2011	\$ 0
o Contributions from Individuals	374,937 ⁶
o Matching Funds Received	351,961 ⁷
o Contributions from the Candidate	25,100
o Loans Received from the Candidate	24,900
o Offsets to Operating Expenditures	3,997
Total Receipts	\$ 780,895
o Operating Expenditures	671,827
o Loan Repayments	4,900
o Contribution Refunds	30,112
Total Disbursements	\$ 707,139
Cash-on-hand @ July 31, 2012	\$ 73,756

⁶ BRFP received approximately 5,900 contributions from more than 5,890 individuals.

⁷ As of the Candidate's date of ineligibility on May 31, 2012, BRFP had received matching funds in the amount of \$285,470. BRFP received an additional \$66,491 on July 5, 2012, for a total of \$351,961.

Part III Summaries

Findings and Recommendations

Finding 1. Net Outstanding Campaign Obligations

The Audit staff's review of BRFP's financial activity through December 31, 2013, and estimated winding down costs indicated that the Candidate did not receive matching fund payments in excess of his entitlement.

In response to the Preliminary Audit Report recommendation, BRFP provided no further comment. (For more detail, see p. 5.)

Finding 2. Reporting of Debts and Obligations

During audit fieldwork, the Audit staff identified debts totaling \$42,097 that were not disclosed on Schedule D-P (Debts and Obligations) as required. Subsequent to the exit conference, BRFP clarified the public record with respect to these debts.

In response to the Preliminary Audit Report recommendation, BRFP provided no further comment. (For more detail, see p. 7.)

Part IV

Findings and Recommendations

Finding 1. Net Outstanding Campaign Obligations

Summary

The Audit staff's review of BRFP's financial activity through December 31, 2013, and estimated winding down costs indicated that the Candidate did not receive matching fund payments in excess of his entitlement.

In response to the Preliminary Audit Report recommendation, BRFP provided no further comment.

Legal Standard

A. Net Outstanding Campaign Obligations (NOCO). Within 15 days after the candidate's date of ineligibility (see definition below), the candidate must submit a statement of "net outstanding campaign obligations." This statement must contain, among other things:

- The total of all committee assets including cash on hand, amounts owed to the committee and capital assets listed at their fair market value;
- The total of all outstanding obligations for qualified campaign expenses; and
- An estimate of necessary winding-down costs. 11 CFR §9034.5(a).

B. Date of Ineligibility. The date of ineligibility is whichever of the following dates occurs first:

- The day on which the candidate ceases to be active in more than one state;
- The 30th day following the second consecutive primary in which the candidate receives less than 10 percent of the popular vote;
- The end of the matching payment period, which is generally the day when the party nominates its candidate for the general election; or
- In the case of a candidate whose party does not make its selection at a national convention, the last day of the last national convention held by a major party in the calendar year. 11 CFR §§9032.6 and 9033.5.

C. Qualified Campaign Expense. Each of the following expenses is a qualified campaign expense.

- An expense that is:
 - Incurred by or on behalf of the candidate (or his or her campaign) during the period beginning on the day the individual becomes a candidate and continuing through the last day of the candidate's eligibility under 11 CFR §9033.5;
 - Made in connection with the candidate's campaign for nomination; and
 - Not incurred or paid in violation of any federal law or the law of the state where the expense was incurred or paid. 11 CFR §9032.9.

- An expense incurred for the purpose of determining whether an individual should become a candidate, if that individual subsequently becomes a candidate, regardless of when that expense is paid. 11 CFR §9034.4.
- An expense associated with winding down the campaign and terminating political activity. 11 CFR §9034.4(a)(3).

D. Entitlement to Matching Payments after Date of Ineligibility. If, on the date of ineligibility (see above), a candidate has net outstanding campaign obligations as defined under 11 CFR §9034.5, that candidate may continue to receive matching payments provided that he or she still has net outstanding campaign debts on the day when the matching payments are made. 11 CFR §9034.1(b).

Facts and Analysis

The Candidate's date of ineligibility (DOI) was May 31, 2012. The Audit staff reviewed BRFP's financial activity through December 31, 2013, analyzed estimated winding down costs and prepared the Statement of Net Outstanding Campaign Obligations that appears below.

**Buddy Roemer for President, Inc.
Statement of Net Outstanding Campaign Obligations
As of May 31, 2012
Prepared December 31, 2013**

Assets

Cash in Bank	\$ 38,987	
Accounts Receivable	<u>154</u>	
Total Assets		\$ 39,141

Liabilities

Accounts Payable for Qualified Campaign Expenses at 5/31/12	\$ 2,547	
Winding Down Costs:		
Actual Winding Down Expenses Paid (6/1/12 – 12/31/13)	103,304	
Estimated Winding Down Costs (1/1/14 – 9/30/14)	<u>34,650 [a]</u>	
Total Liabilities		<u>140,501</u>

Net Outstanding Campaign Obligations (Deficit) as of May 31, 2012 **\$(101,360)**

[a] Estimated winding down costs will be compared to actual winding down costs and adjusted accordingly.

Shown below are adjustments for funds received after the Candidate's DOI.

Net Outstanding Campaign Obligations (Deficit) as of May 31, 2012		(\$101,360)
Less: Contributions Received (June 1, 2012 to July 5, 2012)		245
Less: Matching Funds Received July 5, 2012 ⁸		66,491
Remaining Net Outstanding Campaign Obligations (Deficit) as of July 5, 2012		\$ (34,624)

As presented above, BRFP has not received matching fund payments in excess of its entitlement.

Audit staff presented a preliminary NOCO statement and related work papers to both BRFP representatives at the exit conference. A brief discussion ensued with the BRFP representatives. Audit staff subsequently provided a revised NOCO statement to BRFP's representative, who stated that the workpapers would be reviewed and he would provide any additional comments as necessary.

Preliminary Audit Report Recommendation

The Preliminary Audit Report staff recommended that BRFP demonstrate any adjustments it believes are required in connection with any part of the NOCO statement or provide any other additional comments.

Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report recommendation, BRFP provided no further comment.

Finding 2. Reporting of Debts and Obligations

Summary

During audit fieldwork, the Audit staff identified debts totaling \$42,097 that were not disclosed on Schedule D-P (Debts and Obligations) as required. Subsequent to the exit conference, BRFP clarified the public record with respect to these debts.

In response to the Preliminary Audit Report recommendation, BRFP provided no further comment.

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).

⁸ BRFP's last matching fund payment was deposited on July 5, 2012.

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.

- A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it 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

During audit fieldwork, the Audit staff reviewed disbursement records and disclosure reports for proper reporting of debts and obligations. BRFP reported no debt during the audit period; however, the review identified debts totaling \$42,097⁹ to five vendors that BRFP should have disclosed on Schedule D-P. Based on the records, these five vendors provided mainly legal services, website development, and consulting services. Most of the identified debts were greater than \$500 and all remained outstanding during the reporting period in which they were incurred. These debts were outstanding for periods ranging from 31 to 238 days. Further, of the \$42,097 in debts not disclosed, debts totaling \$15,737 were paid within 40 days of the invoice date.

Preliminary Audit Report & Audit Division Recommendation

The Audit staff discussed the reporting of debts and obligations with BRFP representatives at an exit conference and provided a schedule detailing the transactions requiring disclosure via email prior to the exit conference. During the exit conference, BRFP representatives indicated amendments would be filed during the post-exit conference response period. Subsequent to the exit conference, BRFP clarified the public record with respect to these debts and obligations.

The Preliminary Audit Report recommended that BRFP provide any additional comments it considered necessary with respect to this matter.

Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report recommendation, BRFP provided no further comment.

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