



FEDERAL ELECTION COMMISSION
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October 11, 2012

MEMORANDUM

AGENDA ITEM

To: The Commission

Through: *fp* Alec Palmer *[Signature]*
Staff Director

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

Thomas Hintermister *TCO for TH*
Assistant Staff Director
Audit Division

By: Alex R. Boniewicz *AB for AB*
Audit Manager

For Meeting of 11-1-12

Subject: Resubmission of the Audit Division Recommendation Memorandum on the Maine Republican Party (MRP) (A09-09)

This document, originally circulated September 25, 2012, was withdrawn to update recommendations to conform to Commission Directive No. 70 (FEC Directive on Processing Audit Reports).

Pursuant to Commission Directive No. 70, the Audit staff's recommendations are presented below and the findings are discussed 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 its response to the Interim Audit Report, MRP stated it had amended its reports as requested. However, those amendments did not materially correct the misstatements. In response to the DFAR, MRP filed amended reports that were materially misstated. MRP indicated that the remaining misstatements will be corrected and amended reports will be filed. Additional amendments were subsequently filed by MRP materially correcting the misstatements.

The Audit staff recommends that the Commission find that MRP misstated its financial activity for calendar years 2007 and 2008.

Finding 2. Reporting of Debts and Obligations

In its response to the Interim Audit Report, MRP amended its reports to materially correct the disclosure of these debts. MRP's response to the DFAR did not address this finding.

The Audit staff recommends that the Commission find that MRP improperly disclosed debts and obligations totaling \$103,721.

Finding 3. Disclosure of Disbursements

MRP responded to this finding as follows:

A. Payments from Non-federal Accounts (\$94,019)

- **Administrative costs (\$48,520):**
In response to the Interim Audit Report, MRP was unable to locate documentation to demonstrate these expenditures were solely non-federal in nature. Amended reports filed in response to the Interim Audit Report did not disclose these expenditures.

In response to the DFAR, MRP submitted documentation supporting the non-federal nature for one \$200 expenditure addressed in the DFAR. MRP's did not disclose the remaining expenditures (\$48,320) on amended reports filed in response to the DFAR.

- **Payroll & Associated Costs (\$14,999):**
In response to the Interim Audit Report, MRP was unable to locate documentation to demonstrate these expenditures were solely non-federal in nature. Amended reports filed in response to the Interim Audit Report did not disclose these expenditures.

Amended reports filed in response to the DFAR did not disclose the payroll expenditures. Further, an affidavit submitted by MRP addressed individuals already considered non-federal by the Audit staff, but clarified none were involved with federal election related activities.

- **Voter Identification (\$19,000):**
In response to the Interim Audit Report, MRP amended reports in response to the Interim Audit Report to disclose this expenditure.
- **Printed Materials (\$11,500):**
In response to the Interim Audit Report, MRP was unable to locate documentation to demonstrate these expenditures were solely non-federal in nature. Amended reports filed in response to the Interim Audit Report did not disclose these expenditures.

MRP's response to the DFAR did not address these items.

For \$75,019 of the \$94,019 in expenditures above, the Audit staff did not have sufficient information to be able to conclude that the expenditures, paid entirely

with non-federal funds, included a federal component and therefore required reporting. However, the Audit staff maintains that MRP should provide the records necessary to verify whether these transactions required reporting. Given the lack of sufficient information for these expenditures, the Audit staff recommends that the Commission find these expenditures, paid entirely from the non-federal account, not be included in the disclosure finding. With respect to the voter identification expense noted above, the Audit staff recommends that the Commission find that MRP did not disclose an expenditure for voter identification paid from the non-federal account in the amount of \$19,000.

B. Payments from the Federal Account (\$531,805)

- **Possible Federal Election Activity (FEA) (\$326,688):**

- Get-Out-the-Vote (GOTV)/Public Communications (\$183,747):

- In response to the Interim Audit Report, MRP amended its reports according to schedules provided by the Audit staff and disclosed payments totaling \$183,747 for printed materials as FEA.

- MRP's response to the DFAR did not address these expenditures.

- Payroll Expenses (\$142,941):

- In response to the Interim Audit Report, MRP amended its reports according to schedules provided by the Audit staff. MRP disclosed payroll expenses totaling \$112,406 as FEA and \$22,987 in payroll expenses as allocable expenses on Schedule H4.

- MRP's response to the DFAR did not address these expenditures.

- **Documentation Insufficient to Determine Nature of Expense (\$192,617):**

- Consulting Expenses (\$20,000):

- In response to the Interim Audit Report, MRP amended its reports according to schedules provided by the Audit staff and disclosed payments for consulting totaling \$20,000 as FEA.

- MRP's response to the DFAR did not address these expenditures.

- Travel (\$38,192) and Per Diem Expenses (\$3,050):

- In response to the Interim Audit Report, MRP amended its reports according to schedules provided by the Audit staff and disclosed payments for travel (\$38,041) and per diem expenses (\$3,050) as FEA.

- MRP's response to the DFAR did not address these expenditures.

- Equipment (\$36,933) and Miscellaneous Costs (\$3,702):

- In response to the Interim Audit Report, MRP amended its reports according to schedules provided by the Audit staff and disclosed payments for equipment (\$36,933) and miscellaneous costs (\$3,702) as FEA.

- MRP's response to the DFAR did not address these expenditures.

Printed Materials, Copies Not Available (\$67,711):

In response to the Interim Audit Report, MRP amended its reports according to schedules provided by the Audit staff and disclosed payments for printed materials totaling \$49,194 as FEA.

MRP's response to the DFAR did not address these expenditures.

Telemarketing Expenses (\$23,029):

In response to the Interim Audit Report, MRP amended its reports according to schedules provided by the Audit staff and disclosed payments for telemarketing totaling \$8,355 as FEA.

MRP's response to the DFAR did not address these expenditures.

- **Payment of Apparent Coordinated Party Expenditures (\$12,500):**

In response to the Interim Audit Report, MRP amended its reports to disclose payments totaling \$12,500 as coordinated expenditures.

MRP's response to the DFAR did not address these expenditures.

MRP has materially complied with the Audit staff's recommendation for payments from the federal account identified above.

The Audit staff recommends that the Commission find that MRP improperly disclosed disbursements totaling \$531,805.

Finding 4. Failure to File Notices and Properly Disclose Independent Expenditures

In response to the Interim Audit Report, MRP filed amended reports to disclose independent expenditures totaling \$28,301 of the \$56,601 in independent expenditures identified by the Audit staff. With respect to the remaining \$28,300, MRP cited software difficulties for not disclosing the remaining amount as independent expenditures.

In response to the DFAR, MRP materially complied with the Audit staff's recommendation by filing amended reports that disclosed the remaining \$28,300 as independent expenditures.

The Audit staff recommends that the Commission find that MRP improperly disclosed independent expenditures totaling \$56,601.

Additionally, MRP's DFAR response noted that it had hired an outside compliance firm to assist with developing and/or revising its internal controls to handle its accounting functions and to assist with its reporting.

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.

Should an objection be received, 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 Alex Boniewicz at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on the Maine Republican Party

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the Maine Republican Party

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 Maine Republican Party is a state party committee headquartered in Augusta, Maine. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

• Receipts

○ Contributions from Individuals	\$ 422,772
○ Contributions from Political Party Committees	778,500
○ Contributions from Other Political Committees	172,044
○ Transfers from Non-federal Account	48,381
○ All Other Receipts	887

Total Receipts \$ 1,422,584

• Disbursements

○ Operating Disbursements	\$ 806,455
○ Coordinated Party Expenditures	12,500
○ Federal Election Activity	519,305
○ Independent Expenditures	56,601

Total Disbursements \$ 1,394,861

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Reporting of Debts and Obligations (Finding 2)
- Disclosure of Disbursements (Finding 3)
- Failure to File Notices and Properly Disclose Independent Expenditures (Finding 4)

¹ 2 U.S.C. §438(b).

Draft Final Audit Report of the Audit Division on the Maine Republican Party

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 Maine Republican Party (MRP), 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

Important Dates	
• Date of Registration	April 19, 1976
• Audit Coverage	January 1, 2007 - December 31, 2008
Headquarters	
	Augusta, Maine
Bank Information	
• Bank Depositories	One
• Bank Accounts	Two Federal and Four Non-federal
Treasurer	
• Treasurer When Audit Was Conducted	William Logan
• Treasurer During Period Covered by Audit	Phillip Roy
Management Information	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid/volunteer staff and accounting firm

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2007	\$ 1,888
Receipts	
○ Contributions from Individuals	422,772
○ Contributions from Political Party Committees	778,500
○ Contributions from Other Political Committees	172,044
○ Transfers from Non-federal Account	48,381
○ All Other Receipts	887
Total Receipts	\$ 1,422,584
Disbursements	
○ Operating Disbursements	806,455
○ Coordinated Party Expenditures	12,500
○ Federal Election Activity	519,305
○ Independent Expenditures	56,601
Total Disbursements	\$ 1,394,861
Cash-on-hand @ December 31, 2008	\$ 29,611

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of MRP's reported figures with bank records revealed a misstatement of receipts, disbursements and cash-on-hand in both 2007 and 2008. For 2007, MRP overstated beginning cash-on-hand by \$5,636, understated receipts by \$22,461, understated disbursements by \$29,346 and overstated ending cash-on-hand by \$12,521. For 2008, MRP overstated receipts, disbursements and ending cash-on-hand by \$53,727, \$46,985 and \$19,263, respectively. In its response to the Interim Audit Report, MRP stated that it had amended its reports as requested. However, those amendments did not materially correct the misstatements. (For more detail, see p. 4.)

Finding 2. Reporting of Debts and Obligations

During audit fieldwork, the Audit staff noted that MRP failed to report debts and obligations totaling \$103,721. In its response to the Interim Audit Report, MRP amended its reports to materially correct the disclosure of these debts. (For more detail, see p. 6.)

Finding 3. Disclosure of Disbursements

During audit fieldwork, the Audit staff identified disbursements, totaling \$625,824, which appeared to be improperly disclosed. MRP made disbursements from a non-federal account (\$94,019), which may be federal in nature. In addition, MRP did not properly disclose coordinated expenditures on behalf of a federal candidate (\$12,500) and payments for federal election activity (\$519,305). In its response to the Interim Audit Report, MRP cited difficulties in locating documentation to clarify the non-federal nature of some expenses, but filed amended reports disclosing disbursements according to the schedules provided by the Audit staff. (For more detail, see p. 7.)

Finding 4. Failure to File Notices and Properly Disclose Independent Expenditures

During audit fieldwork, the Audit staff reviewed disbursements and noted expenditures for printed materials totaling \$56,601, which appeared to be independent expenditures that MRP disclosed as operating expenditures. In its response to the Interim Audit Report, MRP agrees that these are independent expenditures; however, citing software issues it has been able to correct the disclosure of these payments only partially. To date, MRP has not filed any additional amended reports.

(For more detail, see p. 12.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of MRP's reported figures with bank records revealed a misstatement of receipts, disbursements and cash-on-hand in both 2007 and 2008. For 2007, MRP overstated beginning cash-on-hand by \$5,636, understated receipts by \$22,461, understated disbursements by \$29,346 and overstated ending cash-on-hand by \$12,521. For 2008, MRP overstated receipts, disbursements and ending cash-on-hand by \$53,727, \$46,985 and \$19,263, respectively. In its response to the Interim Audit Report, MRP stated that it had amended its reports as requested. However, those amendments did not materially 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

During audit fieldwork, the Audit staff reconciled MRP's reported activity with bank records for calendar years 2007 and 2008. The following charts outline the discrepancies for the beginning cash balances, receipts, disbursements and ending cash balances for each year. Succeeding paragraphs address the reasons for the misstatements, if known.

2007 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2007	\$7,524	\$1,888	\$5,636 Overstated
Receipts	\$223,515	\$245,976	\$22,461 Understated
Disbursements	\$209,782	\$239,128	\$29,346 Understated
Ending Cash Balance @ December 31, 2007	\$21,257	\$8,736	\$12,521 Overstated

MRP overstated beginning cash-on-hand by \$5,636, and is unexplained, but the overstatement likely resulted from prior-period discrepancies.

The understatement of receipts was the result of the following:

• Receipts reported, not supported by a credit or deposit	\$ (186)
• Deposited receipts, not reported	22,533
• Interest from non-federal account reported	(28)
• Unexplained difference	<u>142</u>
Net Understatement of Receipts	<u>\$ 22,461</u>

The understatement of disbursements was the result of the following:

• Disbursements not reported	\$ 36,506
• Disbursements reported, not supported by check or debit	(4,006)
• Disbursement from non-federal account reported in error	(3,165)
• Disbursement amounts incorrectly reported	227
• Unexplained difference	<u>(216)</u>
Net Understatement of Disbursements	<u>\$ 29,346</u>

The \$12,521 overstatement of the ending cash-on-hand was the result of the misstatements described above.

2008 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2008	\$21,257	\$8,736	\$12,521 Overstated
Receipts	\$1,230,335	\$1,176,608	\$53,727 Overstated
Disbursements	\$1,202,718	\$1,155,732	\$46,985 Overstated
Ending Cash Balance @ December 31, 2008	\$48,874	\$29,611	\$19,263 Overstated

MRP overstated beginning cash-on-hand by \$12,521, a carryover of the misstatement of ending cash-on-hand for 2007.

The overstatement of receipts resulted from the following:

• Receipts reported but deposited in non-federal account	\$ 52,353
• Unexplained difference	<u>1,374</u>
Overstatement of Receipts	<u>\$ 53,727</u>

The overstatement of disbursements resulted from the following:

• Disbursements reported, not supported by check or debit	\$ (32,736)
• Disbursements not reported	26,881
• Disbursement from non-federal account reported in error	(42,916)
• Debit to reverse deposited contribution reported	(5,000)
• Disbursement reported twice	(56)
• Disbursement amount incorrectly reported	(1,200)
• Unexplained difference	<u>8,042</u>
Net Overstatement of Disbursements	<u>\$ 46,985</u>

The \$19,263 overstatement of the ending cash-on-hand resulted from the misstatements described above.

Prior to the audit, MRP made the Commission aware that an employee of the accounting firm it used had embezzled \$48,000. The individual, who had kept MRP's books for both its federal and non-federal accounts, and prepared the reports to the Commission, pleaded guilty to the embezzlement. As of the time of the audit, the individual had paid restitution of \$39,531 and MRP had filed reports disclosing the embezzlement. MRP conducted a full audit of its books and internal controls and, as recommended by its auditor, has instituted improved internal controls. In addition, MRP has hired a different accounting firm.

The Audit staff's 2008 reconciliation included adjustments related to the embezzlement. Specifically, the adjustment for unreported disbursements of \$26,881 includes \$5,997 in disbursements that were associated with the embezzlement and not reported by MRP. In addition, the adjustment for disbursements reported that were not supported by a check or debit (\$32,736), includes disbursements of \$14,316 that were associated with the embezzlement.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatements for 2007 and 2008 with MRP representatives during the exit conference and provided copies of relevant workpapers detailing the misstatements. The MRP representatives stated that necessary amended reports would be filed.

The Interim Audit Report recommended that MRP:

- 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, MRP should have reconciled the cash balance of its most recent report to identify any subsequent discrepancies that may have affected the adjustment recommended by the Audit staff.

C. Committee Response to Interim Audit Report

In its response to the Interim Audit Report, MRP stated it had amended its reports as requested. However, those amendments did not materially correct the misstatements. The Audit staff has advised MRP of the additional corrections that need to be made. To date, no additional amended reports have been filed.

Finding 2. Reporting of Debts and Obligations

Summary

During audit fieldwork, the Audit staff noted that MRP failed to report debts and obligations totaling \$103,721. In its response to the Interim Audit Report, MRP amended its reports to materially correct the disclosure of these debts.

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. 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

A. Facts

During audit fieldwork, the Audit staff identified debts owed to four vendors totaling \$103,721² that MRP did not report on Schedule D (Debts & Obligations).

Although MRP did report debt totaling \$45,669 relative to three of the four vendors during the audit period, the reported amounts did not accurately reflect the outstanding debt. Beginning with the 2008 July Quarterly Report, the debt reporting for these three vendors continued to be inaccurate for the remainder of 2008. MRP did not report debt with respect to the fourth vendor.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff presented this matter during the exit conference to MRP's representatives and provided them with workpapers detailing the debts. The representatives indicated that MRP would file the necessary amended reports.

The Interim Audit Report recommended that MRP file amended reports to disclose these debts and obligations on Schedule D.

C. Committee Response to Interim Audit Report

In its response to the Interim Audit Report, MRP amended its reports to materially correct the disclosure of these debts.

Finding 3. Disclosure of Disbursements

Summary

During audit fieldwork, the Audit staff identified disbursements, totaling \$625,824, which appeared not to be properly disclosed. MRP made disbursements from a non-federal account (\$94,019), which may be federal in nature. In addition, MRP did not properly disclose coordinated expenditures on behalf of a federal candidate (\$12,500) and payments for federal election activity (\$519,305). In its response to the Interim Audit Report, MRP cited difficulties

² Each debt in this amount was counted once, even if it required disclosure over multiple reporting periods. In order for MRP to file amended reports correctly, the schedule provided included the amount of each debt required to be reported for each reporting period.

in locating documentation to clarify the non-federal nature of some expenses but filed amended reports disclosing disbursements according to the schedules provided by the Audit staff.

Legal Standard

A. Reporting Allocable Expenses. A political 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 (Joint Federal/Non-federal Activity Schedule). 11 CFR §104.17(b)(3).

B. Allocation Ratio for Administrative & Non-Candidate Specific Voter Drive Costs. State and local party committees must allocate their administrative expenses and non-candidate specific voter drive costs according to the fixed percentage ratio. Under this method, if a Presidential candidate and Senate candidate appear on the ballot, the committees must allocate at least 36 percent of expenses to their federal funds. 11 CFR §106.7(d)(2)(ii) and (3)(ii).

C. Coordinated Party Expenditures. A political committee that coordinates expenditures on behalf of a federal candidate must report the name, address, date, amount and purpose, as well as the name of the candidate for which the expenditure is made. 2 U.S.C. §434(b)(6)(B)(iv).

D. Federal Election Activity Expenditures. For each such disbursement, the committee must report the full name and address, date, amount and purpose of the disbursement. Committees report these kinds of disbursements on Schedule B (Itemized Disbursements), which provides space for the disclosure of the candidate's name to which the activity relates, if applicable. 11 CFR §300.36(b)(2).

E. Salaries and Wages. Committees must keep a monthly log of the percentage of time each employee spends in connection with a Federal election. Employees who spend 25 percent or less of their compensated time in a given month on Federal election activity or on activities in connection with a Federal election must either be paid only from the Federal account or have their salaries allocated as an administrative cost. 11 CFR §106.7(d)(1).

Facts and Analysis

A. Payments from Non-federal Accounts

1. Facts

MRP made payments, totaling \$94,019 (see Chart A), from its non-federal accounts for activity that may be federal in nature. Payments totaling \$48,520 from MRP's non-federal accounts appear to be for allocable administrative expenses that should have been paid from a federal account. Also, payments totaling \$45,499 were made from the non-federal account and sufficient records were not available to clarify the nature of the expense or to demonstrate that the expense was solely non-federal. Below is a discussion of these expenses. As calculated at the end of the two-year audit period, MRP did not fund federal activity with non-federal funds.

- **Administrative Costs:** MRP paid expenses totaling \$48,520 from a non-federal account for postage, consulting, travel reimbursements, printing, and accounting fees that appear to be allocable administrative costs. Available documentation

does not indicate that any of these payments were solely for non-federal activities. As allocable administrative expenses, MRP should have paid these from a federal account and reported on Schedule H-4 using an allocation ratio of at least 36 percent federal and 64 percent non-federal in accordance with 11 CFR §106.7(d)(2)(ii) and (3)(ii). MRP should provide documentation to demonstrate that these were solely non-federal expenses.

- Payroll and Associated Costs: MRP paid expenses totaling \$14,999 from a non-federal account for payroll and associated costs. MRP has not provided monthly logs, timesheets or affidavits demonstrating that costs were solely non-federal in nature. It is noted that MRP did provide affidavits for some employees indicating no time was spent relative to federal activity. Payroll and related costs associated with those employees were excluded by the Audit staff from payroll costs in the amounts presented above. MRP should provide documentation to demonstrate the payroll and associated expenses of \$14,999 were solely non-federal.
- Voter Identification: MRP's database described a \$19,000 payment to "National Republican" on April 25, 2008, as made for Voter ID; and, the available invoice noted "volunteer connect." Unless MRP provides documentation to indicate that these expenditures are solely non-federal in nature, MRP should disclose these transactions on its federal disclosure reports.
- Printed Materials: MRP disbursed \$11,500 from a non-federal account for printed materials for which copies were not available to assess the nature of these expenditures or to demonstrate that these payments were solely for non-federal activities. MRP should provide sufficient documentation to clarify the nature of these expenses.

2. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff addressed this matter and provided a schedule identifying the transactions in question to MRP representatives. MRP representatives stated that they would look into these items and send documentation to try to resolve the proper classification of the transactions. MRP representatives subsequently provided materials, including affidavits addressing time employees spent on non-federal election activity that resolved some of the items that the Audit staff considered in its analysis.

The Interim Audit Report recommended that MRP demonstrate that the identified disbursements paid from the non-federal account were solely non-federal expenses. MRP should have provided monthly logs, timesheets or affidavits demonstrating that payroll costs were solely non-federal in nature. In addition, MRP should have obtained and provided samples of printed materials (\$11,500). As necessary, MRP should have amended its reports to disclose, as memo entries, the above disbursements on Schedules B or H-4.

B. Payments from the Federal Account

1. Facts

MRP incorrectly disclosed payments, totaling \$531,805 (See Chart B, Page 1), made from its federal account. MRP disclosed these payments on FEC reports but they appear to have

been reported on the incorrect line number and itemized on the wrong schedule. These payments were for apparent non-allocable FEA (\$519,305) or apparent coordinated party expenditures (\$12,500). As indicated below, in some cases, the Audit staff did not have sufficient records to determine the proper classification. It is also noted that for approximately \$330,000 of these disbursements MRP coded the disbursements on its database as FEA.

- **Possible Federal Election Activity:** MRP reported payments totaling \$326,688 as federal operating expenditures, but they appear to have been made for non-allocable FEA, which should have been reported on Schedule B for Line 30(b). A discussion of these expenditures by category follows:

Get-Out-the-Vote (GOTV)/Public Communications: Payments totaling \$183,747 were made for printed materials, of which MRP coded \$88,241 on its database as FEA. The remaining \$95,506 was not coded on MRP's database as FEA. However, an MRP representative stated during fieldwork that all activity with this vendor was FEA on behalf of the Republican presidential candidate. In addition, copies of the printed materials support that they were for GOTV activity or were public communications in support of a clearly identified federal candidate. As such, the Audit staff considered all these payments FEA. (See Chart B, Page 1, A.)

Payroll Expenses: MRP made expenditures for payroll expenses totaling \$142,941 from its federal account. Documentation detailing the percentage of the individual's times that related to federal activity was not available; however, affidavits were submitted indicating the individuals worked solely in connection with federal elections during 2008. In addition, these individuals received at least one payment that MRP coded on its database as FEA. As such, the Audit staff classified these expenditures as FEA. MRP should explain the discrepancy between its reports and its internal records. (See Chart B, Page 1, B.)

- **Documentation Insufficient to Determine Nature of Expense:** Payments totaling \$192,617 were reported by MRP as federal operating expenditures, but documentation was insufficient to determine the nature of these expenses. Most of these expenditures were coded on MRP's database as FEA.

Consulting Expenses: Although consulting expenses (\$20,000) were coded FEA on MRP's database, MRP has not provided any affidavit or other documentation. The Audit staff classified these expenditures as potential FEA since MRP coded these expenditures on its database as FEA. MRP should explain the discrepancy between its reports and its internal records. (See Chart B, Page 1, B.)

Travel and Per Diem Expenses: MRP made expenditures for travel (\$38,192) and per diem (\$3,050). Documentation was not available detailing the activities the individuals were involved with and whether these activities were related to a clearly identified federal candidate. The Audit staff classified these expenditures as potential FEA since MRP coded these expenditures as such on its database.

MRP should clarify the discrepancy between its reports and its internal records. (See Chart B, Page 2, A. & B.)

Equipment and Miscellaneous Costs: MRP made expenditures for equipment (\$36,933) and miscellaneous costs (\$3,702). MRP's records detailed that, for the most part, the equipment consisted of computers and phone equipment, as well as copier rental. Documentation detailing how the equipment was used was not available. Most of the miscellaneous costs were for shipping, with no indication of what was shipped. However, MRP coded these expenditures as FEA in its database. The Audit staff considered these potential FEA expenses and recommends that MRP clarify the discrepancy between its reports and its internal records. (See Chart B, Page 2, C. & D.)

Printed Materials, Copies Not Available: MRP made payments totaling \$67,711 for printed materials. Copies of these printed materials were not available for review by the Audit staff. Of these payments, MRP coded \$24,417 as FEA, and these payments were for such purposes as Voter ID (\$11,228) and GOTV (\$13,189). The remaining \$43,294 in payments were for apparent GOTV-related activities, although none of them were coded FEA. (See Chart B, Page 2, E.)

Telemarketing Expenses: MRP made expenditures to FLS Connect for telemarketing totaling \$23,029, none of which were coded on MRP's database as FEA. MRP disclosed the purpose for these expenditures as: GOTV (\$6,097), Voter ID (\$3,117), state campaign activity (\$4,460), and telemarketing (\$9,355). Although MRP made invoices available to the Audit staff, copies of scripts/printed materials that would help to determine the nature of these expenditures were not available. (See Chart B, Page 2, F.)

- **Payment of Apparent Coordinated Party Expenditures:** MRP made payments totaling \$12,500 during the period October 30-31, 2008, for a television advertisement for Charlie Summers for Congress. The advertisement appears to be a public communication that refers to a clearly identified House candidate and was publicly disseminated in the candidate's jurisdiction within 90 days of the election. The candidate appears in the advertisement and the advertisement states that it was approved by the candidate. MRP reported these payments on Schedule B (Itemized Disbursements) as other federal operating expenditures rather than on Schedule F (Itemized Coordinated Party Expenditures) as coordinated party expenditures. (See Chart B, Page 3.)

2. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff addressed this matter and provided a schedule identifying the transactions in question to MRP representatives. MRP representatives stated that they would look into these items and send documentation to try to resolve the proper classification of the transactions. MRP representatives subsequently provided materials, including affidavits addressing time employees spent on federal election activity, which resolved some of the items that the Audit staff considered in its above analysis.

The Interim Audit Report recommended that MRP demonstrate that the payments from the federal account were correctly reported as federal operating expenditures. Further information was needed for the Audit staff to verify the classification of disbursements totaling \$192,617. MRP should have explained the discrepancies between expenditures coded on its database as FEA and its reporting of those expenditures as operating expenditures. In addition, MRP should have obtained and provided monthly logs, timesheets or affidavits (\$20,000), samples of printed materials (\$67,711) and telemarketing scripts (\$23,029). MRP should have amended its reports to disclose the noted disbursements on Schedule B or Schedule F, as necessary.

C. Committee Response to Interim Audit Report

In its response to the Interim Audit Report, MRP amended its reports to disclose one of the payments from its non-federal account (Part A above) identified by the Audit staff. MRP's response stated that they were unable to locate documentation to demonstrate any of these expenditures were solely non-federal in nature, to include the one payment for voter id that was disclosed in its amended reports. With respect to payroll and associated costs paid from non-federal accounts, MRP explained that no federal candidates were on the ballot in 2007 and therefore the payroll and associated costs were properly paid as non-federal disbursements; and, as such, MRP did not amend its reports to disclose these transactions. For payments from its federal account (Part B above), MRP filed amended reports disclosing disbursements as FEA or coordinated party expenditures according to the schedules provided by the Audit staff. Although MRP has amended its reports, the nature of some disbursements remains unclear because of a lack of documentation. As a result, the Audit staff does not have a basis for determining whether either the audited reports or the amended report filed are correct.

Finding 4. Failure to File Notices and Properly Disclose Independent Expenditures

Summary

During audit fieldwork, the Audit staff reviewed disbursements and noted expenditures for printed materials totaling \$56,601, which appeared to be independent expenditures that MRP disclosed as operating expenditures. In its response to the Interim Audit Report, MRP agrees that these are independent expenditures; however, citing software issues, it has been able to correct the disclosure of these payments only partially. To date, MRP has not filed any additional amended reports.

Legal Standard

A. Definition of Independent Expenditures. The term “independent expenditure” means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in coordination with any candidate or authorized committee or agent of a candidate. 11 CFR §100.16.

B. Disclosure Requirements – General Guidelines. An independent expenditure shall be reported on Schedule E (Itemized Independent Expenditures) if, when added to other independent expenditures made to the same payee during the same calendar year, it exceeds \$200. Independent expenditures made (i.e., publicly disseminated) prior to payment should be

disclosed as “memo” entries on Schedule E and as a reportable debt on Schedule D. Independent expenditures of \$200 or less do not need to be itemized, though the committee must report the total of those expenditures on line (b) on Schedule E. 11 CFR §§104.3(b)(3)(vii), 104.4(a) and 104.11.

C. Last-Minute Independent Expenditure Reports (24-Hour Notices). Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20th day but more than 24 hours before the day of an election must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour notice is required each time additional independent expenditures aggregate \$1,000 or more. The date that a communication is publicly disseminated serves as the date that the committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000. 11 CFR §§104.4(f) and 104.5(g)(2).

D. Last-Minute Independent Expenditure Reports (48-Hour Notices). Any independent expenditure aggregating \$10,000 or more with respect to any given election, at any time during a calendar year, up to and including the 20th day before an election, must be disclosed within 48 hours each time the expenditures aggregate \$10,000 or more. The notices must be filed with the Commission within 48 hours after the expenditure is made. 11 CFR §§104.4(f) and 104.5(g)(1).

E. Allocation of Expenses Between Candidates. Expenditures made on behalf of more than one clearly identified federal candidate shall be attributed to each such candidate according to the benefit expected to be derived. In the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to all candidates. This method shall be used to allocate payments involving both clearly identified federal candidates and one or more clearly identified non-federal candidates. 11 CFR §106.1(a).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed MRP’s disbursements and identified a payment of \$84,902 for printed materials reported as an operating expenditure. Of this amount, it was calculated that \$56,601 appeared to be apparent independent expenditures. A review of the printed materials revealed the following:

- The “Absentee Ballot Application Self Mailer” invoice billed MRP for two mailers. Both mailers pictured Presidential candidate Senator John McCain and Vice-Presidential candidate Governor Sarah Palin on a sample absentee ballot with checked boxes below their pictures, advocating their election.
- In addition, one sample mailer also pictured Susan Collins, candidate for the U. S. Senate and Charlie Summers, candidate for the U. S. House of Representatives. The other sample provided a picture only of Susan Collins, but provided space for a congressional candidate.
- Both mailers had space provided for a state senate candidate and a state house candidate.
- Above the pictures of the candidates, both samples state “Good Jobs. A Strong Economy. Independence from Foreign Oil.” In addition, the mailers state, “Help Team Maine Today by Signing Up to...Canvass a local precinct door to door.”

Since the documents contain a statement of the candidates' positions on several issues and include the solicitation of volunteer canvassing, they go beyond the limitations of the slate card exemption³. As a result, the Audit staff concluded that a portion of each mailer was an independent expenditure that should have been reported as such and that appropriate 24/48-hour notices should have been filed. The amount of independent expenditures (\$56,601) was determined by the space allotted to federal candidates versus non-federal candidates on the mailers. The remaining \$28,301 (\$84,902 - \$56,601) should have been reported as FEA.

B. Interim Audit Report & Audit Division Recommendation

At an exit conference, the Audit staff addressed this matter, having previously provided MRP with the materials for discussion. MRP representatives stated that they would look into this matter, examine the materials, and address the "slate card" exemption. In response to the exit conference, MRP's Treasurer stated that the materials in question were slate cards and, as such, were exempt from independent expenditure rules.

The Interim Audit Report recommended that MRP take the following action:

- Provide evidence that would demonstrate that these disbursements were not independent expenditures and therefore did not require disclosure as such.
- Absent such a demonstration, MRP should have amended its reports to disclose disbursements of \$56,601 as independent expenditures on Schedule E; and, disclosed the remaining \$28,301 on Schedule B as FEA; and
- Submit and implement revised procedures for recognizing and reporting independent expenditures, to allow for timely filing of 24/48-hour reporting notices, as required.

C. Committee Response to Interim Audit Report

In its response to the Interim Audit Report, MRP stated that the expenditure in question was an "Absentee Ballot Application Self Mailer" which included at least three federal and non-federal candidates and that the previous treasurer apparently believed this qualified for the "slate card" exemption. After review of these materials, MRP now agrees that the "slate card" exemption does not apply. MRP has amended its reports to disclose part of these independent expenditures. MRP cites its software's inability to process the required disclosure information for the remaining independent expenditures. MRP data staff is working on the problem. To date, MRP has not filed additional amendments disclosing the remaining independent expenditures.

³ See 11 C.F.R. §§ 100.80, 100.140, Advisory Opinions 2008-06 (Democratic Party of Virginia), 1978-89 (Withers for Congress), 1978-9 (Republican State Central Committee of Iowa).