



FEDERAL ELECTION COMMISSION
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MEMORANDUM

AGENDA ITEM

To: The Commission

Through: Alec Palmer *AP*
Staff Director

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

Thomas E. Hintermister *TH*
Assistant Staff Director
Audit Division

Doug Kodish *DK*
Audit Manager

By: Paula Nurthen *PN*
Lead Auditor

Subject: Proposed Final Audit Report on the Democratic Party of South Carolina
(A11-19)

For Meeting of 3-6-14

Attached for your approval is the subject report. The report has been written in accordance with Directive 70. Documents related to this audit report can be viewed in the Voting Ballot Matters folder.

This report is being circulated on a 72 hour no objection basis. Should an objection be received, it is recommended that the report be considered at the next regularly scheduled open session. If you have any questions, please contact Paula Nurthen or Doug Kodish at 694-1200.

Attachment:

Proposed Final Audit Report on the Democratic Party of South Carolina



Proposed Final Audit Report on the Democratic Party of South Carolina

(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 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 South Carolina is a state party committee headquartered in Columbia, South Carolina. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 3)

- **Receipts**
 - Contributions from Individuals \$ 501,313
 - Transfers from Non-federal Account 736,973
 - Transfers from Affiliated Committees 753,574
 - Transfers from Other Political Committees 670,971
 - Other Receipts 301,155
 - Total Receipts \$ 2,963,986**

- **Disbursements**
 - Operating Expenditures \$ 1,597,632
 - Federal Election Activity 1,307,227
 - Coordinated Expenditures 50,366
 - Other Disbursements 83,850
 - Total Disbursements \$ 3,039,075**

- **Levin Receipts \$ 51,000**
- **Levin Disbursements \$ 51,000**

Commission Findings (p. 4)

- Recordkeeping for Employees (Finding 1)
- Coordinated Party Expenditures (Finding 2)

¹ 2 U.S.C. §438(b).

Proposed Final Audit Report on the Democratic Party of South Carolina

(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 Democratic Party of South Carolina (DPSC), 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 individual contributors' occupation and name of employer;
2. the disclosure of disbursements, debts and obligations;
3. the disclosure of expenses allocated between federal and non-federal accounts;
4. the consistency between reported figures and bank records;
5. the completeness of records; and
6. other committee operations necessary to the review.

Commission Guidance

Request for Early Commission Consideration of a Legal Question

Pursuant to the "Policy Statement Establishing a Program for Requesting Consideration of Legal Questions by the Commission," DPSC requested early consideration of a legal question raised during the audit. DPSC questioned whether the monthly time logs required under 11 CFR §106.7(d)(1) applied to employees paid with 100 percent federal funds.

The Commission concluded, by a vote of 5-1, that 11 CFR §106.7(d)(1) does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, however, the Commission decided it will not pursue recordkeeping violations for the failure to keep time logs or to provide affidavits to account for employee salaries paid with 100 percent federal funds and reported as such. The Audit staff informed DPSC Counsel of the Commission's decision. Finding 1- Recordkeeping for Employees of this audit report does not include any DPSC employees paid with 100 percent federal funds and reported as such.

Audit Hearing

DPSC declined the opportunity for a hearing before the Commission on matters presented in this report.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	July 10, 1976
• Audit Coverage	January 1, 2009 - December 31, 2010
Headquarters	
	Columbia, South Carolina
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Four federal and five non-federal
Treasurer	
• Treasurer When Audit Was Conducted	Dan D'Alberto
• Treasurer During Period Covered by Audit	Marc Posner, May 29, 2009 - December 31, 2010 Kathryn Hensley, January 1, 2009 - May 28, 2009
Management Information	
• Attended Commission Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Paid staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2009	\$ 125,742
Receipts	
○ Contributions from Individuals	501,313
○ Transfers from Non-federal Account	736,973
○ Transfers from Affiliated Committees	753,574
○ Transfers from Other Political Committees	670,971
○ Other Receipts	301,155
Total Receipts	\$ 2,963,986
Disbursements	
○ Operating Expenditures	1,597,632
○ Federal Election Activity	1,307,227
○ Coordinated Expenditures	50,366
○ Other Disbursements	83,850
Total Disbursements	\$ 3,039,075
Cash-on-hand @ December 31, 2010	\$ 50,653
Levin Cash-on-hand @ January 1, 2009	\$ 0
Total Levin Receipts	\$ 51,000
Total Levin Disbursements	\$ 51,000
Levin Cash-on-hand @ December 31, 2010	\$ 0

Part III

Summaries

Commission Findings

Finding 1. Recordkeeping for Employees

During audit fieldwork, the Audit staff determined that DPSC did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to DPSC employees totaling \$481,956 for which payroll logs were not maintained. This amount consisted of payroll which was allocated between federal and non-federal funds.

In response to the Interim Audit Report recommendation, DPSC stated that it agrees to maintain monthly payroll logs to track federal election activity for those employees who are paid all or in-part with non-federal funds. The Audit staff considered the matter resolved.

The Commission approved a finding that DPSC failed to maintain logs to document the time employees spent on federal election activity totaling \$481,956. (For more detail, see p. 5.)

Finding 2. Coordinated Party Expenditures

The Audit staff determined that DPSC appeared to have exceeded the 2010 coordinated party expenditures limit on behalf of a House candidate by \$5,117. In response to audit fieldwork, DPSC provided additional documentation and filed an amended report reclassifying one of the coordinated expenditures to Line 30(b) (Federal Election Activity Paid Entirely with Federal Funds), thus resolving the overage. In response to the Interim Audit Report recommendation, DPSC provided no additional information regarding this matter.

The Commission approved a finding that DPSC had not exceeded the 2010 coordinated party expenditure limit. (For more detail, see p. 7.)

Part IV

Commission Findings

Finding 1. Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that DPSC did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to DPSC employees totaling \$481,956 for which payroll logs were not maintained. This amount consisted of payroll which was allocated between federal and non-federal funds.

In response to the Interim Audit Report recommendation, DPSC stated that it agrees to maintain monthly payroll logs to track federal election activity for those employees who are paid all or in-part with non-federal funds. The Audit staff considered the matter resolved.

The Commission approved a finding that DPSC failed to maintain logs to document the time employees spent on federal election activity totaling \$481,956.

Legal Standard

Maintenance of Monthly Logs. Party committees must keep a monthly log of the percentage of time each employee spends in connection with a federal election.

Allocations of salaries, wages, and fringe benefits are to be undertaken as follows:

- employees who spend 25 percent or less of their compensated time in a given month on federal election activities must be paid either from the federal account or have their pay allocated as administrative costs;
- employees who spend more than 25 percent of their compensated time in a given month on federal election activities must be paid only from a federal account; and
- employees who spend none of their compensated time in a given month on federal election activities may be paid entirely with funds that comply with State law. 11 CFR §106.7(d)(1).

Facts and Analysis

A. Facts

During fieldwork, the Audit staff reviewed disbursements for payroll. DPSC did not maintain any monthly logs or equivalent records to document the percentage of time each employee spent in connection with federal election activity. These logs are required to document the proper allocation of federal and non-federal funds used to pay

employees. For 2009 and 2010, logs were not maintained for \$481,956² in payroll. This amount consisted of payroll which was allocated between federal and non-federal funds. DPSC had no employees paid with exclusively non-federal funds.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the payroll recordkeeping matter with DPSC representatives during audit fieldwork and at the exit conference. DPSC representatives stated that they did not maintain payroll log documentation and no further information was provided.

For DPSC employees paid with an allocation of federal and non-federal funds, the Interim Audit Report recommended that DPSC provide and implement a plan to maintain monthly payroll logs to track the percentage of time each employee spends on federal election activity.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, DPSC stated that it agrees to maintain monthly payroll logs to track federal election activity for those employees who are paid all or in-part with non-federal funds. Such action is consistent with Commission guidance with respect to the payroll logs. (See Commission Guidance, p. 1.) The Audit staff considered the matter resolved.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that DPSC agreed to maintain logs to track federal election activity for those employees who are paid all or in-part with non-federal funds.

E. Committee Response to the Draft Final Audit Report

DPSC's response to the Draft Final Audit Report provided no additional comments.

Commission Conclusion

On January 16, 2014, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a finding that DPSC failed to maintain logs to document the time employees spent on federal election activity totaling \$481,956.

The Commission approved the Audit staff's recommendation.

² Payroll is stated net of taxes and benefits. This total does not include payroll for employees paid with 100 percent federal funds and reported as such. (See Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question on Page 1).

Finding 2. Coordinated Party Expenditures

Summary

The Audit staff determined that DPSC appeared to have exceeded the 2010 coordinated party expenditures limit on behalf of a House candidate by \$5,117. In response to audit fieldwork, DPSC provided additional documentation and filed an amended report reclassifying one of the coordinated expenditures to Line 30(b) (Federal Election Activity Paid Entirely with Federal Funds), thus resolving the overage. In response to the Interim Audit Report recommendation, DPSC provided no additional information regarding this matter.

The Commission approved a finding that DPSC had not exceeded the 2010 coordinated party expenditure limit.

Legal Standard

A. Coordinated Party Expenditures. National party committees and state party committees are permitted to purchase goods and services on behalf of candidates in the general election, over and above the contributions that are subject to contribution limits. Such purchases are termed “coordinated party expenditures.” They are subject to the following rules:

- the amount spent on “coordinated party expenditures” is limited by statutory formulas that are based on the Cost of Living Adjustment (COLA) and the voting age population;
- party committees are permitted to coordinate the spending with the candidate committees;
- the parties may make these expenditures only in connection with the general election;
- the party committees—not the candidates—are responsible for reporting these expenditures; and
- if the party committee exceeds the limits on coordinated party expenditures, the excess amount is considered an in-kind contribution, subject to the contribution limits. 2 U.S.C. §441a(d) and 11 CFR §§109.30 and 109.32.

B. Assignment of Coordinated Party Expenditure Limit. A political party may assign its authority to make coordinated party expenditures to another political party committee. Such an assignment must be made in writing, state the amount of the authority assigned, and be received by the assignee before any coordinated party expenditure is made pursuant to the assignment. The political party committee that is assigned authority to make coordinated party expenditures must maintain the written assignment for at least three years. 11 CFR §§104.14 and 109.33(a) and (c).

Facts and Analysis

A. Facts

The combined coordinated party expenditure limit for a House of Representative’s Candidate in South Carolina for the 2010 election cycle was \$87,000, with a \$43,500 limit for both the state party (DPSC) and the National Party ((Democratic National

Committee (DNC)). DPSC reported coordinated expenditures of \$48,617 on Schedule F (Itemized Coordinated Party Expenditures) for Robert Miller, a candidate for the House of Representatives (the Candidate). The reported coordinated expenditures exceeded the state party limit by \$5,117.

Of the \$48,617 reported on Schedule F, DPSC disclosed that the DNC³ designated it to spend \$20,250 on their behalf for the Candidate. During fieldwork, the Audit staff requested that DPSC provide DNC⁴ assignment letters to document the assignment of spending authority to DPSC. DPSC representatives did not provide any letters or other documentation to support the assignment of DNC's spending authority. Therefore, the Audit staff concluded that the DPSC's expenditures for the Candidate exceeded the state party coordinated expenditure limit.

B. Interim Audit Report & Audit Division Recommendation

After the exit conference, in response to the Audit staff's request for documentation to show that DPSC had not exceeded the coordinated expenditure limit, DPSC representatives stated that DPSC had mistakenly reported a \$10,250 disbursement for door hangers as a coordinated expenditure that should have been reported as Federal Election Activity on Schedule B, Line 30(b). DPSC's counsel stated that this disbursement was an "exempt slate card activity" and DPSC filed an amended report, reclassifying the \$10,250 expenditure to Line 30(b) as "exempt canvassing material." Based upon a review of the content of the door hanger and the timing of the invoice relative to the election (it appears to have fallen within the established FEA timelines), the Audit staff agreed with the reclassification and concluded that DPSC did not make excessive coordinated expenditures.

The Interim Audit Report recommended that DPSC provide any additional information or written comments that it considered relevant to this finding.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, DPSC provided no additional information regarding this matter.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that DPSC filed an amended report, reclassifying one of the coordinated expenditures to Line 30(b) (Federal Election Activity Paid Entirely with Federal Funds). The Audit staff agreed with the reclassification and concluded that DPSC did not make excessive coordinated expenditures.

E. Committee Response to the Draft Final Audit Report

DPSC's response to the Draft Final Audit Report provided no additional comments.

³ DNC did not report any coordinated expenditures on behalf of the Candidate, but the Democratic Congressional Campaign Committee (DCCC) filings disclosed additional coordinated expenditures of \$15,118 for the Candidate, which is below the spending limit of \$43,500.

⁴ The Audit staff requested that DPSC officials provide letters from both the DNC and the DCCC to document the assigning of its coordinated spending authority.

Commission Conclusion

On January 16, 2014, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a finding that DPSC did not exceed the 2010 coordinated party expenditure limit.

The Commission approved the Audit staff's recommendation.