



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20546

August 7, 1996

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

FROM: ROBERT J. COSTA *RJC*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
THE REPUBLICAN CAMPAIGN COMMITTEE OF NEW MEXICO

Attached please find a copy of the final audit report and related documents on the Republican Campaign Committee of New Mexico which was approved by the Commission on July 30 1, 1996.

Informational copies of the report have been received by all parties involved and the report may be released to the public.

Attachment as stated

cc. Office of General Counsel
Office of Public Disclosure
Reports Analysis Division
FEC Library

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OF NEW MEXICO

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REPORT OF THE AUDIT DIVISION
ON THE
**Republican Campaign Committee
of
New Mexico**

Approved July 30, 1996



FEDERAL ELECTION COMMISSION
999 E STREET, N.W.
WASHINGTON, D.C.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

**FINAL AUDIT REPORT
ON THE
REPUBLICAN CAMPAIGN COMMITTEE OF NEW MEXICO
EXECUTIVE SUMMARY**

The Republican Campaign Committee of New Mexico, formerly known as the Republican State Central Committee of New Mexico, registered with the Comptroller General of the United States on April 19, 1972.

The audit was conducted pursuant to 2 U.S.C. §438(b), which states that the Commission may conduct audits of any political committee whose reports fail to meet the threshold level of compliance set by the Commission.

The findings of the audit were presented to the Committee at an exit conference held at the completion of fieldwork on October 6, 1995, and later in an interim audit report. The Committee's response to those findings are included in this final audit report.

The following is an overview of the findings contained in the final audit report.

MISSTATEMENT OF FINANCIAL ACTIVITY — 2 U.S.C. §§434(b)(1), (2) and (4). In 1993 the Committee understated receipts by a net amount of \$176,032, understated disbursements by a net amount of \$158,859, and materially misstated beginning and ending cash. Within reports covering 1994 the Committee understated receipts by a net amount of \$75,674; understated disbursements by a net amount of \$94,845; and overstated ending cash by \$1,513. In response to the interim audit report, the Committee filed amendments which corrected the public record.

REPORTING OF RECEIPTS FROM INDIVIDUALS AND POLITICAL ORGANIZATIONS — 2 U.S.C §§434(b)(3) and 431(13). In 1993 the Committee failed to report and itemize 257 contributions totaling \$104,654 from individuals, and 25 contributions totaling \$9,481 from political organizations. In 1994 the Committee failed to itemize 120 contributions totaling \$53,120 from individuals and 14 contributions totaling \$70,108 from political organizations. The Committee corrected these problems by filing amended reports. The Committee has also written procedures and installed new computer software to obviate similar omissions.

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REPORTING H-3 TRANSFERS — 11 CFR §§104.10(b)(3) and 106.5(g)(2)(iii).

The Committee failed to itemize 9 transfers totaling \$82,500 from the non-federal to the federal account in 1993, and 8 such transfers totaling \$36,800 in 1994. In addition the Committee reported 6 transactions totaling \$29,500 improperly as H-3 transfers, and reported a nonexistent transaction in the amount of \$9,895 as a non-federal to federal transfer. The Committee filed amended Schedules H-3 detailing only the transfers from the non-federal to the federal account.

REPORTING OF DISBURSEMENTS — 2 U.S.C. §§434(b)(5)(A), and (6)(B); 11

CFR §§104.10(b) and 102.5(a)(1)(i). In 1993 the Committee failed to report and itemize 76 disbursements totaling \$155,182, a transfer to the non-federal account for \$5,616, and bank charges totaling \$46. In 1994 the Committee failed to report and itemize 12 disbursements totaling \$155,182; and reported but failed to itemize 46 additional disbursements totaling \$74,258. The Committee corrected these problems by filing amended reports.

USE OF FUNDS FROM THE NON-FEDERAL ACCOUNT AND DISCLOSURE OF ALLOCABLE (SHARED) ACTIVITY — 11 CFR §106.5(g)(1).

The Committee impermissibly made 66 disbursements totaling \$108,965 from the non-federal account. However, for the audit period the federal account paid its share of allocable expenses. The Committee also calculated and used incorrect percentages for allocation of all shared expenses. The Committee responded to the interim audit report by filing amended Schedules H-1 and H-2 to disclose the correct allocation percentages and filed (Memo) Schedules H-4 detailing all joint expenses disbursed from the non-federal account. The Committee also submitted a description of the changes it has implemented to assure that, in the future, no payments for federal activity will be made from the non-federal account.

REPORTING OF DEBTS AND OBLIGATIONS — 2 U.S.C. §434(b)(8) and 11 CFR

§§104.3(d) and 104.11(a). The Committee failed to report debts and obligations totaling \$85,552. In response to the interim audit report the Committee filed amended disclosure reports to correct the public record.

EXCESSIVE CONTRIBUTIONS BY CASH — 2 U.S.C. §441g and 11 CFR

§110.4(c)(3). The Audit staff identified excessive cash contributions totaling \$3,350 from individuals and two anonymous receipts whose excessive portions totaled \$2,025. In response to the interim audit report the Committee submitted a check payable to the U.S. Treasury for \$2,025 and submitted copies of non-negotiated refund checks made payable to the individuals. The Committee has agreed to submit copies of the canceled refund checks when they are returned from the bank.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

AR#95-65

**REPORT OF THE AUDIT DIVISION
ON THE
REPUBLICAN CAMPAIGN COMMITTEE OF NEW MEXICO**

I. BACKGROUND

A. AUTHORITY

This report is based on an audit of the Republican Campaign Committee of New Mexico (the Committee), undertaken by the Audit Division of the Federal Election Commission in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to section 438(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. Prior to conducting any audit under this subsection, the Commission shall 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. The Audit seeks to determine if the campaign has materially complied with the limitations, prohibitions and disclosure requirements of the Act.

B. AUDIT COVERAGE

The audit covered the period January 1, 1993 through December 31, 1994. During this period, the Committee reports reflect an opening cash balance of \$8,053; total receipts of \$801,984; total disbursements of \$766,842; and a closing cash balance of \$35,768¹

¹ Totals do not foot due to reporting errors. The totals for receipts and disbursements are the sum of the amounts reported for each reporting period. Also, the Committee's reported receipts and disbursements are substantially understated (see Finding II A.). Figures in this report are rounded to the nearest dollar.

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C. COMMITTEE ORGANIZATION

The Republican State Central Committee of New Mexico registered with the Comptroller General of the United States on April 19, 1972 and filed subsequent amended Statements of Organization. On May 11, 1976, the Committee filed an amended Statement of Organization to change its name to Republican Campaign Committee of New Mexico. The Committee maintains its headquarters in Albuquerque, New Mexico.

The Treasurers of the Committee during the period covered by the audit were Mr. Nick Blea from January 9, 1993 through April 17, 1994, and Ms. Andrea Smith from April 18, 1994² through the end of the audit period. Ms. Smith is the current Treasurer.

To manage its financial activity, the Committee maintained three bank accounts. From these accounts the Committee made approximately 1,170 disbursements. The Committee's receipts were composed of contributions from individuals (\$587,890), other political committees and organizations (\$8,490), and transfers from party committees (\$111,299) and the non-federal account (\$346,010).

D. AUDIT SCOPE AND PROCEDURES

The audit included testing of the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations;
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. the receipt of excessive cash contributions (see Finding II.D.);
4. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.A.);
5. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (see Findings II.A. and B.);

² The amended Statement of Organization filed indicated that Ms. Smith was fulfilling the term vacated by Mr. Ray Ubieta. However, no Statement of Organization was filed to install Mr. Ubieta as Treasurer of the Committee.

6. proper disclosure of campaign debts and obligations (see Finding II.C.);
7. the accuracy of total reported receipts, disbursements and cash balances as compared to bank records (see Finding II.A.);
8. adequate recordkeeping of campaign transactions;
9. proper reporting and funding of allocable (shared) expenditures (see Finding II.B.);
10. review of expenditures made on behalf of federal candidates; and,
11. other audit procedures that were deemed necessary in the situation.

Unless specifically discussed below, no material non-compliance was detected. The review of compliance with limitations on contributions was limited. The Committee's receipt records consisted of copies of bank deposits. There was no manual or automated system which could be used to aggregate multiple contributions from the same person and identify a contribution that required itemization or exceeded the limitation. The Audit staff identified contributions in excess of \$200, and aggregated and tested only those contributions for compliance with the contribution limitation and for proper disclosure. It should be noted that the Commission may pursue any of the matters discussed in this report in an enforcement action.

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. REPORTING OF RECEIPTS AND DISBURSEMENTS

1. Background on Bank Accounts

The Committee maintained three bank accounts to handle its federal activity during the audit period, referred to as Allocation, Victory 94, and Special-Individual.

The Allocation account was the main operating account and disbursed funds only for shared expenditures. It was funded by interaccount transfers from the other federal accounts and transfers from the non-federal account to pay the non-federal portion of allocable expenses.

The Victory 94 account received contributions through telemarketing and direct mail solicitation and disbursed funds for federal activity and for GOTV programs.

The Special-Individual account was used to receive contributions related to the Lincoln Day Dinner fundraisers in 1993 and 1994, to make disbursements for the fundraising expenditures, and to receive fees and make expenditures related to the Western States Leadership Conference in 1993.

Although some reporting problems were identified in both the Allocation and Victory 94 accounts discussed above, no activity - neither receipts nor disbursements - was reported from the Special-Individual account. The Audit staff notes that the Committee maintained a non-federal counterpart to this account known as the Special-Corporate account for receipt of federally impermissible funds related to the Lincoln Day Dinners and the Western States Leadership Conference.

2. Misstatement of Financial Activity

Sections 434(b)(1)(2) and (4) of Title 2 of the United States Code state, in part, that a political committee shall disclose the amount of cash on hand at the beginning of the reporting period and the total amount of all receipts and all disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of the Committee's reported activity to its bank activity revealed that material misstatements occurred with respect to reports filed covering both calendar years 1993 and 1994.

a. 1993 Misstatement of Activity

In 1993, beginning cash on hand was overstated by \$2,062; receipts were understated by \$176,032; disbursements were understated by \$158,859; and ending cash on hand was understated by \$11,475.

The Audit staff was unable to explain the difference in beginning cash on hand because the Committee had no workpapers available to determine how reported beginning cash on hand was derived. The understatement of receipts was caused by the following:

- ° Receipts deposited into the Special-Individual account \$158,706
- ° Receipts deposited into the Victory 94 account and not reported 14,296

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◦	Transfer to the Allocation account from the non-federal account not reported ³	<u>3,030</u>
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	Total understatement	<u>\$176,032</u>
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The understatement of disbursements was caused by the net effects of the following:

◦	Transfer from the Special-Individual account to non-federal account	\$ 87,377
◦	Bank service charges and all other reportable disbursements from the Special-Individual account	67,805
◦	Bank service charges and a transfer from the Victory 94 account to non-federal account not reported	5,662
◦	Bank service charges from the Allocation account not reported	117
◦	Arithmetic discrepancies and reconciling items	<u>(2,102)</u>

	Total (net) understatement	<u>\$158,859</u>
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The understatement of ending cash on hand (\$11,475) was a result of the net reporting errors in receipts and disbursements, the overstatement of beginning cash on hand, and a \$3,636 Committee math error.

b. 1994 Misstatement of Activity

In 1994, the Committee understated beginning cash on hand by \$11,475; underreported receipts by \$75,674; understated disbursements by \$94,845; and overstated ending cash on hand by \$1,513

The understatement of receipts was caused by the net effects of the following:

³ See also Finding II A 4 Reporting and Itemization of H-3 Transfers.

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°	Receipts deposited into the Special-Individual account	\$ 50,623
°	Receipts deposited into the Victory 94 account not reported	26,338
°	Transfers from the non-federal account deposited into Allocation account not reported 3/	36,800
°	In-kind receipt not reported	1,258
°	Transfer deposited into non-federal account reported 3/	(4,250)
°	Federal interaccount transfers reported 3/	(25,000)
°	Non-federal interaccount transfer reported 3/	(250)
°	Reported transfer from the non-federal account for which no supporting evidence was found 3/	(9,895)
°	Miscellaneous and reconciling items	<u>50</u>
	Total net understatement	<u>\$ 75,674</u>

The underreporting of disbursements was caused by the following:

°	Transfer to non-federal account from the Special-Individual account	\$ 4,250
°	Disbursements from Special-Individual account	22,736
°	Disbursements from Victory 94 account not reported	64,787
°	Bank service charges from the Allocation account not reported	144

◦	In-kind contribution not reported as disbursement	1,258
◦	Miscellaneous and reconciling items	<u>1,670</u>
	Total understatement	<u>\$94,845</u>

The overstatement of ending cash on hand (\$1,513) was caused by the net effect of the above reporting errors in receipts and disbursements, the carry-over overstatement of beginning cash on hand, and a \$6,183 Committee math error.

The current Committee officials had no explanation for the misstatements noted above. Neither the Committee treasurer who signed the reports, nor anyone who participated in the preparation of the reports, was available for comment.

3. Disclosure and Itemization of Receipts from Individuals and Political Organizations

Section 434(b)(3)(A), (B) and (D) of Title 2 of the United States Code states, in relevant part, that each report under this section shall disclose the identification of each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such contribution. Further, each report under this section shall disclose the identification of each: political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution; and each affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer.

Section 431(13) of Title 2 of the United States Code states that the term "identification" means: in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and in the case of any other person, the full name and address of such person.

a. Receipts from Individuals

As noted in section II.A.2. above, the Committee underreported receipts for both 1993 and 1994. The Committee's receipt records consisted of copies of deposit slips and the associated items in the deposit. The Committee had no system for accumulating multiple contributions from the same person to determine when a particular contribution required itemization. As a result, the only contributions which the Audit staff identified as requiring itemization were those which were greater than \$200.

The Audit staff identified 257 such contributions totaling \$104,654 in 1993. Of these, 247 contributions totaling \$98,604 were deposited into the Special-Individual account and were neither itemized nor reported. Most of these contributions were proceeds from the Lincoln Day Dinner.

In 1994, the Committee failed to itemize 120 contributions totaling \$53,120 (of 146 totaling \$67,670). Of these, 103 totaling \$40,500 were deposited into the Special-Individual account. In addition, it appears that the Committee included on Schedules A some receipts that were not deposited into a federal account.

At the exit conference the Committee was advised of the reporting and itemization problems for both 1993 and 1994. Subsequent to the exit conference the Audit staff provided the Committee with lists of the contributions which required itemization.

b. Receipts from Political Party Committees and Other Political Committees and Organizations

During fieldwork the Audit staff reviewed all receipts deposited into the Committee's accounts and identified 41 contributions totaling \$119,789 from party committees and other political committees and organizations. During the audit period, the Committee reported contributions from these organizations totaling \$58,325 and of these, itemized only two contributions totaling \$40,200.

In 1993 the Committee failed to report and itemize 25 contributions totaling \$9,481 (of 26 contributions totaling \$9,681). Twenty-four of the omissions totaling \$9,381 were deposited into the Special-Individual account.

In 1994, 14 contributions totaling \$70,108 (of 15 totaling \$110,108) from political organizations were not itemized and 12 of these contributions totaling \$51,983 were not reported. None of these contributions were deposited into the Special-Individual account. Included within the contributions not reported were three transfers totaling \$50,000 from the National Republican Senatorial Committee, one in-kind contribution in the amount of \$1,258 from the Republican National Committee, and eight contributions totaling \$725 from unregistered candidate committees.

At the exit conference the Audit staff advised the Committee that there were reporting problems with regard to the receipts from political committees and organizations. The Audit staff provided the Committee with a listing of the transactions which required itemization

4. Reporting and Itemization of H-3 Transfers

Section 104.10(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that a political committee that pays allocable expenses shall report each

transfer of funds from its non-federal account to its federal account for the purpose of paying such expenses. In the report covering the period in which each transfer occurred, the committee shall explain in a memo entry the allocable expenses to which the transfer relates and the date on which the transfer was made. If the transfer includes funds from the allocable costs of more than one activity, the committee shall itemize the transfer showing the amounts designated for administrative expenses and generic voter drives, and for each fundraising program or exempt activity. Section 106.5(g)(2)(ii) of this Title provides that such funds may not be transferred more than 10 days before or more than 60 days after the payments for which they are designated are made.

The Committee made periodic transfers from its non-federal account to its federal accounts to pay the non-federal portion of allocable expenses. Such transfers are reported on FEC Form 3X, Schedule H-3 and are hereinafter referred to as H-3 transfers. For 1993, the Committee made 21 such transfers which totaled \$193,210. For 1994, the Committee made 19 transfers totaling \$152,800.

The Audit staff reviewed all activity between both federal and non-federal bank accounts and determined that for 1993 the Committee failed to report 3 transfers totaling \$4,710 and failed to itemize 9 transfers totaling \$82,500. For 1994, the Committee failed to report 8 transfers totaling \$36,800. Also, 5 interaccount transfers totaling \$25,250 which should not have been reported were included as H-3 transfers. In addition the Committee reported a federal to non-federal transfer for \$4,250 as an H-3 receipt. Finally, a \$9,895 H-3 transfer was reported which is not supported by bank records or other documentation.

At the exit conference the Committee was provided a schedule which included the total H-3 activity which should be reported. The Committee appeared to have no knowledge about the unsupported H-3 transfer reported in 1994.

5. Disclosure and Itemization of Disbursements

Section 434(b)(5)(A) of Title 2 of the United States Code requires the reporting committee to disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a committee operating expense, together with the date, amount, and purpose of such operating expenditure. Subsection (6)(B)(i) of this Section also requires that each report shall disclose the name and address of each political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution.

Section 104.10(b) of Title 11 of the Code of Federal Regulations states in relevant part that political committees that have established separate federal and non-federal accounts pursuant to 11 CFR §102.5(a)(1)(i) shall state, for each disbursement from its federal account for a joint federal and non-federal expense or activity, the full name and address of each person to whom the disbursement was made, and the date.

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amount and purpose of each such disbursement. The committee shall also report the total amount expended by the committee that year, to date, for each category of disbursement. The disclosure of each disbursement for the direct costs of a fundraising program or an exempt activity shall include an identifying title or code.

As noted in section II.A.2. above, disbursements were underreported during the audit period by \$253,704. In addition, \$74,184 of the disbursements that were reported were not itemized as required. Also, the disclosure of the disbursements itemized was incorrect with regard to the allocation percentages used (see Finding II.B.1.) and was incomplete for the identification of specific fundraising programs or events.

In 1993 the Committee failed to report and itemize 76 disbursements totaling \$155,182 - all from the Special-Individual account. In addition, the Committee failed to report and itemize a transfer to the non-federal account in the amount of \$5,616 and bank charges totaling \$46 from the Victory 94 account.

In 1994 the Committee failed to report and itemize 12 disbursements totaling \$26,987 - all from the Special-Individual account. The Committee did report but failed to itemize 36 disbursements totaling \$16,859 from the Allocation account and 10 disbursements totaling \$57,399 from the Victory 94 account.

Most of the disbursements not reported or not itemized during the audit period were for allocable activity and should have been reported on Line 21a and itemized on Schedule H-4. Other disbursements, including expenditures for federal activity, transfers to the non-federal account, and a contribution to a federal candidate require itemization on Schedules B for Lines 21b, 22 and 23 respectively.

At the exit conference the Audit staff advised the Committee that there was a reporting problem with regard to disbursements for operating expenses, transfers to the non-federal account, and a contribution to a federal candidate. Subsequent to fieldwork detailed schedules of all disbursements were provided to the Committee.

With respect to subsections 1 to 5 above, the interim audit report recommended that the Committee file:

- ° Amended reports for calendar years 1993 and 1994 to correct the misstatements of financial activity described above;
- ° Schedules A (for Line 11a) to amend its disclosure reports for 1993 and 1994 to itemize contributions from individuals,
- ° Schedules A (for Lines 11c and 12) to itemize the contributions from political committees and organizations for 1993 and 1994.

- Schedules H-4 (for Line 21a) for 1993 and 1994 to itemize the allocable activity from the federal account;
- Schedules B (for Line 21b) for 1994 itemizing the wholly federal activity disbursed from federal accounts;
- Schedules B (for Line 22) for 1993 and 1994 itemizing the transfers from the federal account to the non-federal account;
- Schedule B (for Line 23) for 1994 itemizing the contribution to the federal candidate; and
- Schedules H-3 (for Line 18) to itemize the transfers from the non-federal account to the federal account;

The interim audit report also recommended that the Committee provide in writing the current procedures which have been implemented to document and support each H-3 transfer, and to provide any documentation or commentary relevant to the \$9,895 transfer for which no records were found.

In response to the interim audit report the Committee filed amended reports which materially disclosed the financial activity for 1993 and 1994 as follows: Summary and Detailed Summary Pages which corrected the misstatement of financial activity; Schedules A itemizing the contributions from individuals and political committees; Schedules B itemizing the wholly federal activity, transfers from the federal account to the non-federal account, and the contribution to the federal candidate; Schedules H-3 detailing the transfers from the non-federal account to the federal account; and Schedules H-4 itemizing all shared activity disbursed from the federal account.

Within the narrative portion of the response the Committee outlined the new procedures and guidelines it has adopted to document and support each H-3 transfer. The Committee also stated that it has installed new computer software which identifies contributions from political committees and accumulates multiple contributions from the same individual so that all contributions requiring itemization can now be identified and reported. Committee personnel have also attended FEC seminars conducted both to promote an understanding of the regulations and to facilitate accurate reporting.

With regard to the \$9,895 transfer initially reported on Schedule H-3, the Committee was unable to provide any additional information, and agreed that it did not occur. The amended reports do not include this transaction.

B. REVIEW OF ALLOCABLE ACTIVITY

Section 106.5(g)(1) of Title 11 of the Code of Federal Regulations states, in part, that a committee that has established separate federal and non-federal accounts under

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11 CFR 102.5(a)(1)(i) shall pay the expenses of joint federal and non-federal activities as follows: (i) pay the entire amount of an allocable expense of joint federal and non-federal (allocable) activities from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense; or (ii) establish a separate allocation account into which funds from its federal and non-federal accounts shall be deposited solely for the purpose of paying the allocable expenses of joint federal and non-federal activities. Once a Committee has established a separate allocation account for this purpose, all allocable expenses shall be paid from that account for as long as the account is maintained.

Section 104.10(b)(4) of Title 11 of the Code of Federal Regulations states, in part, a political committee that pays allocable expenses in accordance with 11 CFR 106.5(g) or 106.6(e) shall also report each disbursement from its federal account or separate allocation account in payment for a joint federal and non-federal expense or activity.

The rules regarding the percentages to be used in the allocation of shared expenses for administrative and generic voter drives; exempt activities; and direct costs of fundraising relevant to this Committee are described respectively under sections 106.5(d), (e) and (f) of Title 11 of the Code of Federal Regulations. Administrative and voter drive percentages are calculated on the ratio of the federal offices expected on the ballot to total federal and non-federal offices expected on the ballot in the next general election to be held in the committee's state. Exempt activities are allocated according to the proportion of time or space devoted to federal candidates or elections as compared to the total time or space devoted to all federal or non-federal candidates or elections. Fundraising costs shall be allocated based on the ratio of funds received into its federal account to its total receipts from each fundraising program or event.

1. Review of Allocation Percentages Used by the Committee

The Audit staff reviewed the allocation percentages used by the Committee for administrative expenses, generic voter drives, exempt activities, and fundraising programs. The allocation ratios calculated by the Audit staff are materially different than the ratios used by the Committee.

For administrative expenses and generic voter drive allocation the Committee calculated a federal allocation of 25%. The Audit staff determined that the correct federal allocation during the audit period was 22%. The miscalculation was made because the Committee failed to take advantage of the total points allowed for "Other Statewide Office(s)".

The Committee conducted 13 fundraising programs or events during the audit period. For most programs the Committee reported the same allocation ratio as that reported for Administrative Voter Drive (25%). The Committee representatives did not know how the reported ratios were derived, and no workpapers were available to

demonstrate their derivation. The Audit staff determined the correct fundraising allocation ratios and presented to the Committee a schedule of these fundraising allocation ratios at the exit conference. The Audit staff also explained the difference in the allocation ratio for Administrative expenses. The Committee raised no objection to the ratios as calculated by the Audit staff and only queried on how they were derived.

The Audit staff allocated all shared expenses from both the federal and non-federal accounts at the ratios we calculated

2. Summary of Allocable Activity from both Federal and Non-federal Accounts

The Audit staff reviewed disbursements from both the federal and non-federal accounts during the audit period to evaluate compliance with 11 CFR §106.5(g) and to determine if the federal account paid its share of allocable expenses.

The Committee maintained an allocation account pursuant to 11 CFR §106.5(g)(1). Pursuant to subsection (ii) of this regulation, all disbursements were payments for allocable expenses of joint federal and non-federal activities, and the only funds deposited were either interaccount transfers from the federal accounts or transfers from the non-federal account ⁴. However, the Audit staff determined that allocable disbursements (129 totaling \$222,132) were also made from the two other federal accounts (Special-Individual and Victory 94).

The review of disbursements from the two non-federal bank accounts (Special-Corporate and Finance) determined that the Committee made 66 disbursements totaling \$108,965 from the non-federal account for allocable expenses. The allocable expenditures included administrative expenses of the Western States Leadership Conference, Administrative and Voter Drive costs, and expenses for several fundraising programs. The federal share of this allocable activity totaled \$16,361 for 1993, and \$46,587 for 1994.

The Audit staff analyzed Committee records to determine whether the federal account paid its share of allocable expenses. The non-federal share of expenses paid by the federal account was offset against both the transfers from the non-federal account ⁵ and the federal share of allocable expenses paid by the non-federal account.

⁴ With few exceptions, all transfers from the non-federal account were deposited into this account

⁵ The Committee could not provide workpapers to support the amount of each transfer reported on Schedule H-3. The Audit staff reviewed all transfers to determine if the amounts transferred were within the 10-60 day window and concluded that all but one transfer (on March 3, 1993) were fully supported by allocable expenses paid from the federal account during the compliance window

During 1993 the federal account underpaid its share of allocable expenses by \$9,670. This amount includes the non-federal share of allocable disbursements paid from the federal account (\$199,901) less the non-federal transfers (\$193,210) less the federal share of allocable disbursements paid from the non-federal account (\$16,361).

During 1994 the federal account paid \$84,635 more than required the result of netting the non-federal share of expenses paid from the federal account (\$284,022) less the non-federal transfers (\$152,800) less the federal share of expenses paid from the non-federal account (\$46,587).

Therefore, for the audit period the federal account paid \$65,611 more than its required share. This amount is calculated by offsetting the sum of the underpayment for 1993 (\$9,670) and a debt reported for prior periods (\$9,354)⁶, by the balance in 1994 (\$84,635)

Although disbursement of allocable activity from the non-federal account is prohibited, all these transactions need to be reported on Schedules H-4 (Memo) to complete the public record.

At the exit conference and subsequent to the close of fieldwork the Committee was provided schedules which detailed the allocable disbursements from the federal and non-federal bank accounts. The Committee had no explanation for why the allocable disbursements were made from the non-federal account and agreed to review the schedules provided by the Audit staff

The interim audit report recommended that the Committee demonstrate that it did not make disbursements from its non-federal account for the purpose of financing federal activity. Absent such a demonstration the Committee should detail in writing the changes it has implemented to comply with the regulations as well as any other comments and documentation it believed relevant to this matter. With respect to the debt reported as owed to the non-federal account, the interim report recommended that the Committee offer an explanation or documentation relevant to this issue.

The interim audit report also recommended that the Committee file:

- Schedules H-1 and H-2 for 1993 and 1994 to disclose the correct allocation percentages for Administrative and Voter Drive and Fundraising costs; and

⁶ On January 1, 1993 the Committee reported a debt owed to the non-federal account in the amount of \$9,354. On June 30, 1993 the Committee reported an additional amount of \$1,277 for a balance owed the non-federal account of \$10,631. The Committee did not disclose this debt on subsequent reports, and made no disbursement to repay the debt to the non-federal account during the audit period.

- (Memo) Schedules H-4 for 1993 and 1994 which detail all joint expenses disbursed from the non-federal account

In response to the interim audit report the Committee submitted written procedural changes and described internal controls which it has instituted to ensure that no payments for federal activity will be made from the non-federal accounts. The Committee stated that it was unable to support the debt reported as owed to the non-federal account.

The Committee filed Schedules H-1 and Schedules H-2 which disclosed the correct allocation percentages used for Administrative and Voter Drive and Fundraising costs and filed (Memo) Schedules H-4 which itemized the joint expenses disbursed from the non-federal account.

C. REPORTING OF DEBTS AND OBLIGATIONS

Section 434(b)(8) of Title 2 of the United States Code states, in part, that each report under this section shall disclose the amount and nature of outstanding debts and obligations owed by or to such political committee.

Section 104.3(d) of Title 11 of the Code of Federal Regulations requires that each report filed under 11 CFR 104.1 shall disclose on Schedule C (loans) or D (obligations to vendors) the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Section 104.11(a) requires that debts which remain outstanding shall be continuously reported until extinguished. Subsection (b) states that a debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, the amount of which is \$500 or less, shall be reported as of the time payment is made or not later than 60 days after such obligation is incurred, whichever comes first. A debt or obligation, the amount of which is over \$500 shall be reported as of the date on which the debt or obligation is incurred.

With the exception of an unsupported debt to the non-federal account, the Committee did not report any debts and obligations during the audit period. The Audit staff reviewed disbursement documentation and determined that the Committee failed to report debts totaling \$60,161 owed to four vendors as of January 1, 1993. In addition, the Audit staff identified obligations to two other vendors totaling \$25,391 which were incurred during the audit period and required disclosure on Schedule D. According to available documentation, these debts were liquidated during the audit period and there were no apparent outstanding obligations as of December 31, 1994.

At the exit conference the Audit staff recommended that the Committee file amended disclosure reports for 1993 and 1994 disclosing the incurrence and payment of

these obligations. The Audit staff discussed with the Committee specific reporting requirements with respect to disclosure of all debts and obligations. The Committee agreed to file any necessary amendments.

The interim audit report recommended that the Committee file amended Schedules D to disclose the obligations to vendors for each reporting period in 1993 and 1994.

In response to the interim audit report the Committee filed, on July 15, 1996, amended Schedules D which disclosed the debts and obligations as recommended above.

D. EXCESSIVE CONTRIBUTIONS BY CASH

Section 441g of Title 2 of the United States Code states that no person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office. Section 110.4(c)(1) of Title 11 of the Code of Federal Regulations includes the restriction of this aggregate cash limitation to any political committee.

Section 110.4(c)(3) of this Title requires that a committee receiving any anonymous cash contribution in excess of \$50 shall promptly dispose of the amount over \$50. The amount over \$50 may be used for any lawful purpose unrelated to any Federal election, campaign, or candidate.

The Audit staff determined that the Committee received seven contributions from individuals whose aggregate excessive cash contributions totaled \$3,350. This review also disclosed two anonymous receipts whose excessive portions totaled \$2,025.

At the exit conference the Committee sought guidance on the options available for resolving these matters.

The interim audit report recommended that the Committee either demonstrate that the excessive portion of cash received from the individuals was refunded to each contributor or transferred to the non-federal account within 30 days of receipt of the contributions or refund the excessive portions to the contributors and provide proof of the refund (front and back of canceled checks) to the Audit staff for review.

The interim audit report also recommended that the Committee either demonstrate that the anonymous cash receipts were not excessive or dispose of the excessive portions. The report described an acceptable method of disposition as the issuance of a check payable to the U.S. Treasury and submitted to the Commission for deposit.

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In response to the interim audit report the Committee submitted copies of checks made payable to the named individuals. The dates on these check copies were contemporaneous with the submission of the response and did not represent negotiated instruments. In a telephone conversation after receipt of the response the Committee stated that they intend to submit not only the front and back copies of the negotiated checks but also copies of the bank statements through which they clear.

The Committee also submitted a check payable to the U.S. Treasury in the amount of \$2,025 as recommended.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 31, 1996

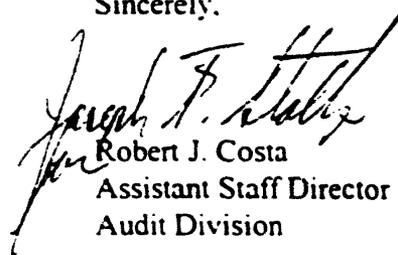
Ms. Andrea Smith, Treasurer
Republican Campaign Committee of New Mexico
P.O. Box 36900
Albuquerque, NM 87176

Dear Ms. Smith:

Attached please find the Final Audit Report on the Republican Campaign Committee of New Mexico. The Commission approved the report on July 30, 1996.

The Commission approved final audit report will be placed on the public record on August 7, 1996. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 219-4155. Any questions you have related to the matters covered during the audit or in the report should be directed to Cornelia Riley or Joe Swearingen of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,


Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

cc: Kevin Moomaw, Executive Director

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CHRONOLOGY

**REPUBLICAN CAMPAIGN COMMITTEE
OF NEW MEXICO**

Audit Fieldwork	9/18/95 - 10/6/95
Interim Audit Report to the Committee	4/9/96
Response Received to the Interim Audit Report	6/28/96
Final Audit Report Approved	7/30/96

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