




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 9, 2000

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

FROM: ROBERT J. COSTA 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
DEMOCRATIC PARTY OF ARKANSAS FEDERAL ACCOUNT

Attached please find a copy of the final audit report and related documents on the Democratic Party of Arkansas Federal Account which was approved by the Commission on April 20, 2000.

Informational copies of the report have been received by all parties involved and the report may be released to the public on May 9, 2000.

Attachment as stated

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

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REPORT OF THE AUDIT DIVISION
ON THE
DEMOCRATIC PARTY OF ARKANSAS
FEDERAL ACCOUNT

Approved April 20, 2000



FEDERAL ELECTION COMMISSION
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WASHINGTON, D.C.

2007.02.29.09

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REP. OF ARK. DEM. PARTY



FEDERAL ELECTION COMMISSION
Washington, DC 20463

DEMOCRATIC PARTY OF ARKANSAS FEDERAL ACCOUNT

EXECUTIVE SUMMARY

The Democratic Party of Arkansas Federal Account (the Committee) registered with the United States General Accounting Office as the Arkansas State Democratic Committee on October 16, 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 February 18, 1999 and later in the interim audit report. The Committee submitted an untimely response to the interim audit report findings and, as a result, it was not considered in preparation of this audit report.

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

Receipt of Contributions from Individuals in Excess of the Limitation — 2 U.S.C. §441a(a)(1)(C), 11 CFR §103.3(b)(3) and (4). The Audit staff identified contributions from 2 individuals which were in excess of the \$5,000 contribution limitation by \$25,000. The Committee transferred \$20,000 in December 1996 and \$5,000 in January 1997 to its main non-federal account relative to these contributions. The Audit staff notes that both of these transfers were made after the sixty days allowed by 11 CFR 103.3(b)(3) and that the transfers were made subsequent to the Committee receiving "Request for Additional Information" notices from the Commission's Reports Analysis Division questioning whether these were excessive contributions.

Receipt of Apparent Prohibited Contributions — 2 U.S.C. §441b(a), 11 CFR §103.3(b)(2) and (4). In 1996, the Committee disclosed a \$1,000 contribution from Georgia Pacific and a \$5,000 contribution from Southwestern Bell. In 1997, the Committee filed an amendment noting that these two contributions had been deposited into the wrong account and that they were subsequently transferred to a non-federal account. The Audit staff verified that a \$6,000 transfer was made to the Committee's main non-federal account, apparently to move these two contributions out of the federal account.

Recordkeeping for Disbursements — 2 U.S.C. §432(c)(5), 11 CFR §104.3(b)(4)(i)(A). The Audit staff conducted a sample review of the Committee's disbursements and determined that the Committee did not satisfy the minimum

recordkeeping requirements for a material percentage of the items tested. The exceptions noted involved: (1) not maintaining receipted bills, invoices and/or canceled checks; (2) missing or incomplete addresses; and, (3) inadequate descriptions of why certain disbursements were made. The Committee has not provided any further documentation.

Disclosure of Occupation/Name of Employer — 2 U.S.C. §434(b)(3)(A), 2 U.S.C. §431(13)(A), 2 U.S.C. §432(i) 11 CFR §104.7(b). The audit identified a material number of errors regarding the Committee's disclosure of contributor's occupation/name of employer. This information was not maintained in the Committee's records and the Committee was not able to demonstrate that it had exercised best efforts to obtain, maintain, and submit this information. The Committee has not provided any further documentation on this matter.

Misstatement of Financial Activity — 2 U.S.C. §434(b)(1),(2) and (4). Disclosure reports filed for the period January 1, 1995 through December 31, 1995 contained material misstatements. For this period, reported receipts were understated by \$165,960 while disbursements were understated by \$165,676. As a result of identified reporting discrepancies, the cash figure at December 31, 1995 was understated by \$656. Subsequent to the forwarding of this report to the Commission, the Committee filed an amended report which materially corrected these misstatements.¹

Joint Federal and Non-Federal Activities — 11 CFR §104.10(b), 11 CFR §104.14(b), 11 CFR §106.5(a), 11 CFR §106.5(f), 11 CFR §106.5(g). The Committee incorrectly used its Schedule H-1 (Method of Allocation for Shared Federal and Non-Federal Administrative Expenses and Generic Voter Drive Costs) ratio to allocate expenditures related to each of the eight events listed on its Schedule H-2 (Allocation Ratios). The Audit staff was unable to verify the correctness of the Committee's disclosure, on Schedules H-3 (Transfers from Non-Federal Accounts), of 91 transfers from its non-federal to its federal accounts, totaling \$1,832,426, due to a lack of records. Nine of these transfers, totaling \$31,247, were not located on the Committee's bank documentation. Ten additional transfers from its non-federal to its federal accounts, totaling \$99,203, were not reported by the Committee.

On its Schedules H-4 (Joint Federal/Non-Federal Activity), the Committee applied the ratio derived on Schedule H-1 relative to administrative/voter drive costs to all shared expenses and categorized all expenses as "Administration." Ratios were not developed for other categories of expenditures, such as those related to fundraising or direct support of candidates. The Audit staff analyzed the available records and determined that the Committee's non-federal accounts apparently over-funded the federal accounts by \$11,046. On April 17, 2000, subsequent to the forwarding of this report to the Commission, the Committee provided a photocopy of a check which indicated that a reimbursement from a federal account to a non-federal account had been made as requested in the interim audit report.

¹ The Committee's response to the interim audit report was due on April 4, 2000; on April 17, 2000 an amended report was filed.



FEDERAL ELECTION COMMISSION
WASHINGTON, D. C. 20463

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***REPORT OF THE AUDIT DIVISION ON THE
DEMOCRATIC PARTY OF ARKANSAS
FEDERAL ACCOUNT***

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of the Democratic Party of Arkansas Federal Account (the Committee), undertaken by the Audit Division of the Federal Election Commission (the 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.

B. AUDIT COVERAGE

The audit covered the period from January 1, 1995 through December 31, 1996. During this period, the Committee reported a beginning cash balance of \$8,308; total receipts of \$3,354,124; total disbursements of \$3,340,240; and a closing cash balance of \$22,192.¹

¹ All figures in this report have been rounded to the nearest dollar.

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C. COMMITTEE ORGANIZATION

The Committee registered with the United States General Accounting Office as the Arkansas State Democratic Committee on October 16, 1972. The Committee maintains its headquarters in Little Rock, Arkansas. The Committee had two Treasurers during the period covered by the audit. Ms. Dawne Benafield Vandiver from January 1, 1995 through April 2, 1995. Mr. Jim Pledger was elected Treasurer on April 2, 1995 and remained in office for the remainder of the audit period. The current Treasurer is Mr. Ron Oliver.

To manage its federal financial activity, the Committee maintained seven federal bank accounts. The Committee's receipts were composed of contributions from individuals, political committees, transfers from party committees, refunds/rebates, loans, and transfers from its own non-federal accounts. The Committee maintained seven non-federal bank accounts during the period covered by the audit.²

D. AUDIT SCOPE AND PROCEDURES

The audit included such tests as verification of total reported receipts and disbursements; the review of the required supporting documentation; and such other audit procedures as deemed necessary under the circumstances. The general categories tested as part of audit procedures are detailed below.

There were several categories covered by this audit in which the scope of testing was limited due to a lack of sufficient documentation. The Audit staff was unable to perform the substantive testing normally undertaken when reviewing the following: (1) disbursements (see Finding II.C.); (2) debts and obligations owed by the Committee; (3) allocation of shared expenses (see Finding II.F.3.); and, (4) expenses associated with transfers from the non-federal accounts to the federal accounts (see Finding II.F.2.).

The current Committee officials stated that it was difficult for them to locate the missing documentation because they were not associated with the Committee during the period covered by the audit.

On July 6, 1999, the Commission approved subpoenas to the Committee's banks and major media vendors to produce documentation which would enable the Audit staff to complete its testing. Several responses to the subpoenas were received between July 29, 1999 and November 17, 1999. This documentation, which was materially complete, was considered in preparing this report.

² Although the Committee maintained seven federal and seven non-federal accounts, the Audit staff refers to the "main federal account" and the "main non-federal account" throughout this report. These were the accounts with the majority of activity.

The audit included testing of the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.A.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations (see Finding II.B.);
3. 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.D.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.F.);
5. proper disclosure of debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to bank records (see Finding II.E.);
7. adequate recordkeeping for transactions (see Finding II.C.);
8. proper disclosure of the allocable expenses (See Finding II.F.);
9. other audit procedures that were deemed necessary in the situation.

Unless specifically discussed below, no material non-compliance was detected. It should be noted that the Commission may pursue any of the matters discussed in this report in an enforcement action.

In the Audit Report on Clinton/Gore '96 Primary Committee, Inc. (the Primary Committee), a media program sponsored by the Democratic National Committee (DNC) was discussed. The program was used to air a number of television commercials between August, 1995 and August, 1996 that featured President Clinton, or President Clinton and Senator Dole. The Primary Committee Audit Report placed the cost of this program at \$46,580,358. It was also explained that DNC funds were routed through the state party committees which in turn effected payment to the media vendors. The DNC would have been required to use 65% federal funds and 35% non-federal funds to pay for the program. These state party committees involved in effecting payment, on average operated under more favorable Federal/Non-Federal allocation ratios than the DNC.

The Democratic Party of Arkansas Federal Account was one of 35 state party committees involved with this DNC media program, and paid out \$1,487,021 to the media vendors which placed the television and radio commercials in connection with this program.

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. RECEIPT OF CONTRIBUTIONS FROM INDIVIDUALS IN EXCESS OF THE LIMITATION

Section 441a(a)(1)(C) of Title 2 of the United States Code states, in relevant part, that no person shall make contributions to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

Sections 103.3(b)(3) and (4) of Title 11 of the Code of Federal Regulations states, in part, that contributions which on their face exceed the contribution limitation set forth in 11 CFR 110.1 or 110.2 shall be returned to the contributor. If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor. If a redesignation or reattribution is not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. Further, any contribution which appears to be illegal and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds.

During our review of receipts, the Audit staff identified two contributions from individuals that appeared to exceed the \$5,000 contribution limitation. In 1995 the Committee deposited, into one of its federal accounts, \$25,000 in contributions from an individual (\$20,000 on October 6, 1995 and \$5,000 on November 30, 1995). The Committee transferred \$20,000 to its main non-federal account on December 23, 1996 relative to this individual.

In 1996, the Committee deposited into its federal accounts \$10,000 in contributions from an individual (\$5,000 on July 15, 1996 and \$5,000 on October 3, 1996). The Committee transferred \$5,000 to its main non-federal account on January 23, 1997 relative to this individual.

The Audit staff notes that both of these transfers were made after the sixty days allowed by 11 CFR 103.3(b)(3) and that the transfers were made subsequent to the Committee receiving "Requests for Additional Information" notices from the Commission's Reports Analysis Division questioning whether these were excessive contributions.

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No separate account was maintained by the Committee relative to questionable contributions and the Committee did not consistently maintain a sufficient balance to cover the refund/transfer the amounts deposited in excess of the limitation (see 11 CFR 103.3(b)(4)). The Audit staff also considered the apparent prohibited contributions received by the Committee in determining if the Committee maintained a sufficient balance to refund the apparent excessive/prohibited contributions (see Finding II.B.).

At the exit conference, the Audit staff presented this matter to the Committee. The Committee officials did not provide any relevant information on this matter.

In the interim audit report, the Audit staff recommended that the Committee present evidence that the contributions in question did not represent excessive contributions and stated that the Committee could provide any additional information or explanation relative to this matter. The Committee did not respond to the interim audit report.

B. RECEIPT OF APPARENT PROHIBITED CONTRIBUTIONS

Section 441b(a) of Title 2 of the United States Code states, in relevant part, that it is unlawful for any corporation organized by authority of any law of Congress, to make a contribution in connection with any election to any political office, or for any corporation or labor organization, to make a contribution in connection with any election to federal office and that it is unlawful for any candidate, political committee or any person knowingly to accept or receive any contribution prohibited by this section.

Sections 103.3(b)(2) and (4) of Title 11 of the Code of Federal Regulations state, in part, that the treasurer shall refund any contribution determined to be illegal to the contributor within thirty days of the date on which the illegality is discovered. Further, any contribution which appears to be illegal and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds.

The Committee disclosed on its Quarterly Report, which covered the period January 1, 1996 through March 31, 1996, the following entries on its Schedules A (Itemized Receipts): (1) a \$1,000 contribution from "Georgia Pacific," and (2) a \$5,000 contribution from "Southwestern Bell Co." February 14, 1996 was the date disclosed for both contributions. In January of 1997, the Committee filed amended Schedules A which noted that these two contributions were "Deposited in wrong account" and that the contributions were "transferred to Non-Federal 1-23-97 see Deposit Slip attached."

The Commission issued a subpoena to NationsBank requesting all documentation related to these two contributions. The bank provided photocopies of the two contribution checks, along with the relevant deposit slips. The payee relative to both checks was the "Arkansas Democratic Party Non-Federal."

The Audit staff verified that the Committee transferred \$6,000 to its main non-federal account on January 23, 1997; this \$6,000 apparently represented the \$1,000 and \$5,000 contributions noted above. No separate account was maintained by the Committee relative to questionable contributions and the Committee did not consistently maintain a sufficient balance to cover the refund of these two contributions during the period in question (see 11 CFR 103.3(b)(4)) (see Finding II.A.). The Audit staff notes that both of these transfers were made after the thirty days allowed by 11 CFR 103.3(b)(1).

At the exit conference, the Audit staff presented this matter to the Committee. The Committee officials did not provide any relevant information on this matter.

In the interim audit report, the Audit staff recommended that the Committee present evidence that the contributions in question were not from prohibited sources and stated that the Committee could provide any additional information or explanation relative to this matter. The Committee did not respond to the interim audit report.

C. RECORDKEEPING FOR DISBURSEMENTS

Section 432(c)(5) of Title 2 of the United States Code states, in part, that the treasurer of a political committee shall keep an account of the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, including a receipt, invoice, or canceled check for each disbursement in excess of \$200.

Section 104.3(b)(4)(i)(A) of Title 11 of the Code of Federal Regulations states, in relevant part, that purpose means a brief statement or description of why the disbursement was made.

The Audit staff conducted a sample review of the Committee's disbursements to determine if records were maintained as required. The Audit staff determined that the Committee did not satisfy the minimum recordkeeping requirements for a material percentage of the items tested. The exceptions noted involved: (1) not maintaining receipted bills, invoices and/or canceled checks; (2) missing or incomplete addresses; and, (3) inadequate descriptions of why certain disbursements were made. As part of the inventory of the records, the Audit staff provided a listing of the missing canceled checks to the Committee.

At the exit conference, the Audit staff presented this matter to the Committee. Committee officials stated that the Committee's banks had been contacted and requested to provide copies of the missing canceled checks; none of which have been provided to date. Copies of the requests to the Committee's banks were provided to the Audit staff.

In the interim audit report, the Audit staff recommended that the Committee obtain and submit the missing disbursement information and/or provide an explanation of its efforts to obtain this information. The Audit staff further recommended that the Committee implement procedures to insure compliance with the Act's recordkeeping requirements and provide a written description of these procedures to the Audit staff. The Committee did not respond to the interim audit report.

D. DISCLOSURE OF OCCUPATION/NAME OF EMPLOYER

Section 434(b)(3)(A) of Title 2 of the United States Code requires, in part, a political committee to report the identification of each person who makes a contribution to the committee in an aggregate amount or value in excess of \$200 per calendar year, together with the date and amount of any such contribution.

Section 431(13)(A) of Title 2 of the United States Code defines the term "identification" to be, 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.

Section 432(i) of Title 2 of the United States Code states, in part, that when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act.

Section 104.7(b) of Title 11 of the Code of Federal Regulations states, in relevant part, that the treasurer will only be deemed to have exercised best efforts to obtain, maintain and report the required information if for each contribution received aggregating in excess of \$200 per calendar year which lacks required contributor information, the treasurer makes at least one effort after the receipt of the contribution to obtain the missing information. Such effort shall consist of either a written request sent to the contributor or an oral request to the contributor documented in writing. The written or oral request must be made no later than thirty days after receipt of the contribution. The written or oral request shall not include material on any other subject or any additional solicitation, except that it may include language solely thanking the contributor for the contribution.

The Audit staff conducted a sample review of contributions from individuals to determine if the required information, relative to receipts required to be itemized, was adequately disclosed. Our testing revealed that the Committee did not

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meet the minimum requirements for reporting occupation and/or name of employer in 74% of the items tested. The majority of these errors resulted from the Committee not disclosing the contributor's name of employer. This information was not maintained in the Committee's files and the Committee was not able to demonstrate that it had exercised best efforts to obtain, maintain and submit the missing information.

Although requested, the Committee did not provide any documentation, such as copies of letters, to demonstrate that it had made a follow-up request to those contributors for which occupation and/or name of employer was incomplete. The Audit staff located one type of solicitation device in the Committee's receipt records. This device requested the required information, but the Audit staff could not determine to whom it was sent.

At the exit conference, the Audit staff presented this matter to the Committee. The Committee officials did not provide any relevant information on this matter.

In the interim audit report, the Audit staff recommended that the Committee take the following action:

- Provide solicitation materials and "one effort after receipt" materials which demonstrate that best efforts have been used to obtain, maintain, and submit the required disclosure information; or
- Absent such a demonstration, make an effort to contact those individuals whose contributions aggregate in excess of \$200 in a calendar year for which required information is missing or incomplete, in accordance with 11 CFR 104.7; and
- Provide documentation of such contacts, such as copies of letters to the contributors and/or phone logs of oral requests; and
- File amended Schedules A (Itemized Receipts) to disclose any information obtained from those contacts.

The Committee did not respond to the interim audit report.

E. MISSTATEMENT OF FINANCIAL ACTIVITY

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

The Audit staff reconciled the Committee's reported financial activity to its bank activity for the period January 1, 1995 through December 31, 1996 and determined that the Committee's reported 1995 activity was materially understated.

The Committee understated reported receipts by \$165,960. This net understatement was primarily due to the following: eleven wire transfers from the Democratic National Committee (DNC), totaling \$77,566, were not reported; nine wire transfers from the Committee's main non-federal account, totaling \$93,221, were not reported; and, two transfers-in, totaling \$10,895, that were reported on Schedules H-3 (Transfers from Non-Federal Accounts) as coming from the Committee's main non-federal account, but there were no corresponding credits indicated on the Committee's bank statements.

It should be noted that the eleven wire transfers from the DNC, totaling \$77,566, and the nine transfers from the Committee's main non-federal account, totaling \$93,221, were forwarded to Squire Knapp Ochs (SKO), a media vendor, shortly after receipt by the Committee (see Background Section I.D.).

The Committee understated reported disbursements by \$165,676. This understatement was primarily due the Committee not reporting eleven wire transfers to SKO, totaling \$165,786.

It should be noted that the \$165,786 in wire transfers to SKO were apparently related to the earlier transfers-in from the DNC and the Committee's main non-federal account discussed above.

The reported beginning and ending cash on hand balances were understated by \$341 and \$656 respectively.

At the exit conference, the Audit staff presented this matter to the Committee. The Committee officials did not provide any relevant information on this matter.

In the interim audit report, the Audit staff recommended that the Committee file amendments to the applicable 1995 reports to correct the misstatements noted above. These amendments were to include the Summary and Detailed Summary Pages for each applicable reporting period in 1995, as well as revised Schedules A (Itemized Receipts), Schedules B (Itemized Disbursements), and Schedules H-3 (Transfers From Non-Federal Accounts). The Committee did not respond to the interim audit report.

F. JOINT FEDERAL AND NON-FEDERAL ACTIVITIES

1. DISCLOSURE OF ALLOCATION RATIOS (SCHEDULE H-2)

Section 104.10(b)(2) of Title 11 of the Code of Federal Regulations states, in part, that in each report disclosing disbursements for the direct costs of a fundraising program or an exempt activity, the committee shall assign a unique identifying title or code to each such program or activity and shall state the allocation ratio calculated for the program or activity. The Committee shall explain the manner in which the ratio was derived.

Section 106.5(a)(2)(ii) of Title 11 of the Code of Federal Regulations states, in part, that committees that make disbursements in connection with federal and non-federal elections shall allocate expenses according to this section for the direct costs of a fundraising program or event including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where federal and non-federal funds are collected by one committee through such program or event.

Section 106.5(f) (1) and (2) of Title 11 of the Code of Federal Regulations states, in part, that if federal and non-federal funds are collected by one committee through a joint activity, that committee shall allocate its direct costs of fundraising according to the funds received method. Under this method, the committee shall allocate its fundraising costs based on the ratio of funds received into its federal account to its total receipts from each fundraising program or event. This ratio shall be estimated prior to each such program or event based upon the Committee's reasonable prediction of its federal and non-federal revenue from that program or event, and no later than the date 60 days after each fundraising program or event from which both federal and non-federal funds are collected, the committee shall adjust the allocation ratio for that program or event to reflect the actual ratio of funds received.

Section 104.14(b) of Title 11 of the Code of Federal Regulations states, in part, that each political committee required to file any report or statement shall maintain all records relevant to such reports or statements... [and such records] shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness.

The Audit staff reviewed the Committee's Schedules H-2 (Allocation Ratios) which disclosed eight separate events: three were noted as fundraising activities; two were noted as exempt activities; and, three were noted as direct candidate support activities. No documentation was available regarding the calculation of the allocation ratios relative to these eight events.

The Audit staff determined that the Committee reported the same allocation ratio on its Schedule H-1 (Method of Allocation for Shared Federal and Non-Federal Administrative Expenses and Generic Voter Drive Costs) as it reported on its

Schedule H-2 relative to each of the eight events reported on its H-2. The Audit staff determined that the Schedule H-1 ratio was calculated correctly, but it appeared that the Committee incorrectly used this same ratio to allocate expenditures between its federal and non-federal accounts relative to the eight events reported on Schedule H-2.

**2. DISCLOSURE OF TRANSFERS FROM NON-FEDERAL ACCOUNTS
(SCHEDULE H-3)**

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 in accordance with 11 CFR 106.5(g) shall report each transfer of funds from its non-federal account to its federal account for the purpose of paying such expenses and that in the report covering the period in which the 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.

Section 106.5(g)(2)(ii) of Title 11 of the Code of Federal Regulations states, in part, that funds transferred from a committee's non-federal account to its federal account are subject to the following requirements: (A) For each such transfer, the committee must itemize in its reports the allocable activities for which the transferred funds are intended to pay as required by 11 CFR 104.10(b)(3); and (B) 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 disclosed 91 transfers from its non-federal accounts to its federal accounts, totaling \$1,832,426, during the period covered by the audit. The Committee reported these transfers on Schedules H-3 (Transfers from Non-Federal Accounts) and characterized the expenses relative to these transfers as Administrative/Voter Drive. The Committee's records relative to these transfers did not allow the Audit staff to identify the category of allocable expenses associated with each transfer. As a result, the Audit staff was unable to verify that the amounts transferred for the allocable activity were calculated correctly by the Committee. In addition, we were unable to test the timing of transfers to determine if they were made no more than 10 days before or 60 days after the payments were made to the vendor.

In addition, the Audit staff determined that the Committee did not report 10 transfers, totaling \$99,203, from the Committee's non-federal to its federal accounts. The Committee also reported nine transfers on its Schedules H-3, totaling \$31,247, that the Audit staff was unable to verify on the Committee's bank documentation. The Audit staff concluded that these transfers should not have been reported on Schedules H-3.

3. DISCLOSURE OF DISBURSEMENTS FOR SHARED ACTIVITY (SCHEDULE H-4)

Section 104.10(b)(4) of Title 11 of the Code of Federal Regulations states, in part, that a political committee that pays allocable expenses in accordance with 11 CFR 106.5(g) shall also report each disbursement from its federal account in payment for a joint federal and non-federal expense or activity. In the report covering the period in which the disbursement occurred, the committee shall state the full name and address of each person to whom the disbursement is made, and the date, amount and purpose of each disbursement. If the disbursement includes payment for the allocable costs of more than one activity, the committee shall itemize the disbursements showing the amounts designated for payment of administrative expenses and generic voter drives, and for each fundraising program or exempt activity as described in 11 CFR 106.5(a)(2). The Committee shall also report the total amount expended by the committee that year, to date, for each category of activity.

Section 106.5(g)(3) of Title 11 of the Code of Federal Regulations provides that a political committee that transfers funds between accounts and pays allocable expenses according to this section shall report each such transfer and disbursement pursuant to 11 CFR 104.10(b).

The Committee maintained separate federal and non-federal accounts and did not utilize a separate allocation account. During the period covered by the audit, the Committee paid shared expenses from its federal accounts as required. Shared expenses were itemized on Schedules H-4 (Joint Federal/Non-Federal Activity Schedule), however, the federal/non-federal shares disclosed for all shared expenditures were based on the ratio derived on Schedule H-1 relative to administrative/voter drive costs (43% Federal / 57% Non-Federal). Ratios were not developed for other categories of expenditures, such as those related to fundraising or direct support of candidates (see Finding II.F.1. above). Furthermore, the Committee categorized all of its Schedule H-4 expenditures during the audit period as "Administration."

4. APPARENT OVER-FUNDING BY THE NON-FEDERAL ACCOUNT

Section 106.5(g)(2)(iii) of Title 11 of the Code of Federal Regulations states, in part, that any portion of a transfer from a committee's non-federal account to its federal account that does not meet the requirements of paragraph (g)(2)(ii) of this section shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act.

The Audit staff's review of disbursements was limited due to a lack of receipted bills, invoices and/or canceled checks being maintained by the Committee (see Background Section I.D.). However, the Audit staff reviewed the Committee's computerized listing of disbursement transactions in an attempt to determine whether the Committee over-funded its federal accounts from its non-federal

accounts. The data contained the check amount, payee, and purpose relative to each disbursement made from the Committee's federal accounts during the period covered by the audit.

Using this computerized listing, the Audit staff categorized the Committee's disbursements by purpose and payee in an attempt to determine the correct ratio of federal to non-federal funds which should have been applied to each Committee disbursement. The disbursements were divided into three major categories: 1) 100% federal, 2) 100% non-federal, and 3) allocable disbursements. The Audit staff surmised that the Committee made disbursements for federal activity totaling \$217,570, disbursements for non-federal activity totaling \$40,000, and disbursements for shared activity totaling \$3,249,766. Even assuming that all \$3,249,766 in apparent shared expenses were correctly allocated using the administrative/voter drive ratio (see Finding II.F.3.), we concluded that the Committee could have transferred no more than \$1,889,336 from its non-federal accounts to pay for the shared federal/non-federal activity mentioned above. The Committee transferred \$1,900,382 from its non-federal accounts. The difference of \$11,046 (\$1,900,382 - \$1,889,336) represents an apparent over-funding by the Committee's non-federal accounts. Should additional information become available, the amount of over-funding would likely increase.

In the interim audit report, the Audit staff recommended that the Committee take the following action:

- Provide documentation related to all joint federal/non-federal fundraising activities occurring during the period covered by the audit, along with a breakdown by deposit identifying the joint activity responsible for the contributions; and file amended Schedules H-2 with revised federal/non-federal allocation ratios, if different from the original filings (see Finding II.F.1.); and
- Provide documentation related to the all transfers from the non-federal accounts to the federal accounts during the period covered by the audit, which supports the breakdown of allocable expenses associated with the transfers, as well as the Committee's calculations relative to amounts transferred; and, file amended Schedules H-3 with revised breakdowns of the allocable expenses relative to these transfers, if different from the original filings (see Finding II.F.2.); and
- Provide documentation relative to all shared expenses which would enable the Audit staff to determine the correct expense classifications relative to these payments and file amended Schedules H-4 , if different from the original filings (see Finding II.F.3.): and
- Demonstrate that the non-federal account did not over-fund its portion of shared expenses, or refund \$11,046 to the non-federal account and provide documentation in support of the refund (see Finding II.F.4.).

The Audit staff further recommended that the Committee implement procedures to insure compliance with the Act's requirements related to the allocation of expenses between federal and non-federal activities and provide a written description of these procedures to the Audit staff. The Committee did not respond to the interim audit report.

2007.02.25.2006



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 2, 2000

Mr. Ron Oliver
Democratic Party of Arkansas Federal Account
1300 West Capitol Avenue
Little Rock, AR 72201

Dear Mr. Oliver:

Attached please find the Report of the Audit Division on the Democratic Party of Arkansas Federal Account. The Commission approved the report on April 20, 2000.

The Commission approved Final Audit Report will be placed on the public record on May 9, 2000. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 694-1220. Any questions you have related to matters covered during the audit or in the report should be directed to Terry O'Brien or Marty Favin of the Audit Division at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Costa".

Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

22.07.06.000

CHRONOLOGY

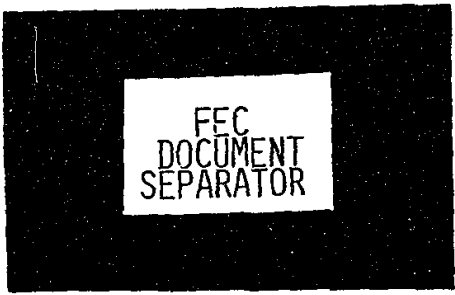
DEMOCRATIC PARTY OF ARKANSAS FEDERAL ACCOUNT

Audit Fieldwork	11/09/1998 - 02/18/1999
Interim Audit Report to the Committee	03/02/2000
Response Received to the Interim Audit Report	No Response ¹
Final Audit Report Approved	04/20/2000

¹ The Committee's response to the interim audit report was due on April 4, 2000; partial responses were received on April 17, 2000 and April 18, 2000. The final audit report was forwarded to the Commissioners on April 13, 2000. The materials included in the untimely responses were not incorporated into the final audit report.

06.07.025.2000

22.07.025.2932



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