



FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20463

April 3, 2003

**MEMORANDUM**

TO: Ron M. Harris  
Press Officer  
Press Office

FROM: Joseph F. Stoltz *JFS*  
Assistant Staff Director  
Audit Division

SUBJECT: Public Issuance of the Final Audit Report on the Democratic State Central Committee of Maryland

Attached please find a copy of the final audit report and related documents on the Democratic State Central Committee of Maryland that was approved by the Commission on March 19, 2003.

All parties involved have received informational copies of the report and the report may be released to the public on April 3, 2003.

Attachment as stated

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



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**REPORT OF THE AUDIT DIVISION**  
**ON**  
**DEMOCRATIC STATE CENTRAL**  
**COMMITTEE OF MARYLAND**

**Approved on March 19, 2003**



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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

## DEMOCRATIC STATE CENTRAL COMMITTEE OF MARYLAND

### EXECUTIVE SUMMARY

The Democratic State Central Committee of Maryland (DCM) registered with the Commission on May 11, 1981 and maintains its headquarters in Annapolis, MD. The treasurer during the period covered by the audit was Mr. Kenneth Wilson. The current treasurer is Mr. Gary Gensler.

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 audit findings summarized below were presented to DCM at the completion of fieldwork on August 30, 2002 and later in the interim audit report. DCM's responses to those findings are contained in the audit report.

**APPARENT EXCESSIVE CONTRIBUTIONS** - 2 U.S.C. §§441a(a)(1)(C) and (2)(C). DCM received contributions in excess of the limitations totaling \$19,125 from seven individuals and one political action committee. Of this amount, \$6,500 was transferred to a non-federal account. With respect to the remaining excessive contributions of \$12,625, DCM provided documentation that demonstrated the excessive contributions were not excessive (\$2,500), transferred to a non-federal account (\$5,000), or refunded to the contributors (\$5,125).

**APPARENT PROHIBITED CONTRIBUTIONS** - 2 U.S.C. §441b(a) and 11 CFR §110.1(g)(5). DCM received contributions, totaling \$6,125, from 5 limited liability companies (LLC). In response to the interim audit report, DCM provided signed statements from three of the entities documenting they were not corporations and refunded the remaining two contributions.

**DISCLOSURE OF OCCUPATION/NAME OF EMPLOYER** - 2 U.S.C. §434(b)(3)(A). In a sample review of reported contributions, approximately 43% lacked occupation/name of employer. In response to the interim audit report, DCM provided copies of letters sent to contributors requesting the required information and filed amended reports to correct the deficiencies.

**DISCLOSURE OF DEBTS AND OBLIGATIONS** – 2 U.S.C. §434(b)(8). The Audit staff identified five debts, totaling \$95,544, which were not reported. In response to the interim audit report, DCM filed amended reports to materially correct these omissions.

**SHARED FUNDRAISING EVENTS** – 11 CFR §§104.10(b)(2) and (4). DCM failed to provide sufficient documentation to support the allocation ratios for five shared fundraising events disclosed on Schedule H2 (Allocation Ratios). In response to the interim audit report, DCM provided additional documentation and amended Schedules H2 and Schedules H4 that materially correct the disclosure of its shared fundraising activity.





***REPORT OF THE AUDIT DIVISION  
ON THE  
DEMOCRATIC STATE CENTRAL COMMITTEE OF MARYLAND***

**I. BACKGROUND**

**A. AUDIT AUTHORITY**

This report is based on an audit of the Democratic State Central Committee of Maryland (DCM), 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 January 1, 1999 through December 31, 2000. DCM reported a beginning cash balance on January 1, 1999 of \$8,081; total receipts for the audit period of \$1,754,508; total disbursements for the audit period of \$1,749,390; and, an ending cash balance of \$13,199 on December 31, 2000.

**C. COMMITTEE ORGANIZATION**

DCM registered with the Commission on May 11, 1981 and maintains its headquarters in Annapolis, MD. The treasurer during the period covered by the audit was Mr. Kenneth Wilson. The current treasurer is Mr. Gary Gensler.

To manage its financial activity, DCM maintained three federal accounts and eight non-federal accounts. From the federal accounts, DCM made approximately 1,400 disbursements. DCM was financed primarily through; transfers from non-federal accounts for joint activity (\$695,819), contributions from individuals (\$544,028), transfers from affiliated/other party committees (\$313,524) and contributions from political action committees (\$196,048). A paid employee performed accounting and recordkeeping functions utilizing a common accounting software package. This

individual has not attended a Commission conference or seminar. DCM began filing disclosure reports electronically in calendar year 2000.

#### **D. AUDIT SCOPE AND PROCEDURES**

The testing of receipts from individuals with respect to contribution limitations and occupation and name of employer information was limited due to a lack of any formal aggregation system and a lack of external source documentation. With the above limitations considered, the audit included testing of the following general categories:

1. receipt of contributions or loans in excess of the statutory limitations (Finding II.A.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations (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 (Finding II.C.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as the completeness and accuracy of the information disclosed,;
5. proper disclosure of debts and obligations (Finding II.D);
6. review of expenditures made on behalf of federal candidates;
7. the accuracy of total reported receipts, disbursements and cash balances as compared to committee bank records;
8. adequate recordkeeping for transactions;
9. proper disclosure of the allocation of costs associated with administrative expenses and activities conducted jointly on behalf of federal and non-federal elections and candidates (Finding II.E.); and,
10. other audit procedures that were deemed necessary under the circumstances.

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

## **CHANGES TO THE LAW**

On March 27, 2002, President Bush signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA). The BCRA contains many substantial and technical changes to the federal campaign finance law. Most of the changes became effective November 6, 2002. The period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are those that were in effect during the audit period.

## **II. AUDIT FINDINGS AND RECOMMENDATIONS**

### **A. APPARENT EXCESSIVE CONTRIBUTIONS**

Sections 441a(a)(1)(C) and (2)(C) of Title 2 of the United States Codes state that no person and no multicandidate committee shall make contributions to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

Section 431(8)(A)(i) of Title 2 of the United States Codes states that the term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

Section 100.7(a)(1)(iii) of Title 11 of the Code of Federal Regulations states, in part, that the term "anything of value" includes all in-kind contributions.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that contributions which exceed the contribution limitations may be deposited into a campaign depository or returned to the contributor. If any such contribution is deposited, the treasurer may request reattribution of the contribution by the contributor in accordance with 11 CFR 110.1(k). If a reattribution is not obtained, the treasurer shall, within 60 days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

Section 103.3(b)(4) of Title 11 of the Code of Federal Regulations states, in part, that any contribution which appears to be illegal under 11 CFR 103.3(b)(3), 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.

Section 110.1(k) of Title 11 of the Code of Federal Regulations states, in part, that any contribution made by more than one person, shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. A contribution made by more than one person that does not indicate the

amount to be attributed to each contributor shall be attributed equally to each contributor. If a contribution on its face or when aggregated with other contributions from the same contributor exceeds the limitations on contributions, the treasurer may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. A contribution shall be considered to be reattributed to another contributor if the treasurer of the recipient political committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person and informs the contributor that he or she may request a return of the excessive portion of the contribution if it is not intended to be a joint contribution; and within 60 days from the date of the treasurer's receipt of the contribution, the contributors provide a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended.

The Audit staff's review of contributions revealed that DCM received contributions in excess of the limitations from seven individuals and one political action committee totaling \$19,125. Of this amount, excessive contributions totaling \$6,500 were transferred to a non-federal account,<sup>1</sup> though not in a timely manner and the contributors were not advised of the transfer. As of the close of fieldwork, no action had been taken with respect to remaining excessive contributions, totaling \$12,625 (\$19,125 - \$6,500). DCM did not deposit any of the excessive contributions into a separate account nor did it consistently maintain sufficient funds to refund these contributions.

During the exit conference, DCM's representative was provided with a schedule of the excessive contributions. The representative indicated that she thought some of these excessive contributions may have been transferred to the non-federal account in 2002 and would present evidence to us if that occurred.

In the interim audit report, the Audit staff recommended that DCM provide evidence and/or documentation that demonstrates the contributions in question were not excessive. Absent such evidence, it was recommended that DCM refund from the federal account the remaining unresolved excessive contributions, totaling \$12,625, and provide evidence of such refunds (copies of the front and back of the negotiated refund checks). If sufficient funds were not available to make the refunds, the excessive contribution amounts were to be disclosed as debts owed to the contributors, on Schedule D (Debts and Obligations), until such time that funds became available.

DCM provided documentation that demonstrated contributions totaling \$7,500 were either not excessive (\$2,500) or transferred to a non-federal account (\$5,000 on May 31, 2001). With respect to the remaining excessive contributions totaling \$5,125, DCM made the requested refunds and provided copies of negotiated refund checks for all

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<sup>1</sup> DCM received Requests for Additional Information (RFAI) from the Commission's Reports Analysis Division related to apparent excessive contributions. Although a refund of the above described excessive contributions would normally be warranted, the Commission is not requiring refunds (of \$6,500) because the language in the RFAI letters may not have fully clarified the requirements for transfers of excessive contributions.

but one (\$125). DCM stated that it would submit a copy of this negotiated check once it clears the bank.

## **B. APPARENT CORPORATE CONTRIBUTIONS**

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation to make a contribution or expenditure in connection with any election to political office or in connection with any election at which a Representative in Congress is to be voted for or in connection with any primary election held to select candidates for the foregoing office, and for any candidate, political committee or other person to knowingly accept or receive any contribution prohibited by this section.

Section 103.3(b)(2) and (4) of Title 11 of the Code of Federal Regulations states, 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.

Section 110.1(g)(1) of Title 11 of the Code of Federal Regulations states, in part, that a limited liability company (LLC) is a business entity that is recognized as a limited liability company under the laws of the State in which it is established.

Section 110.1(g)(2) of Title 11 of the Code of Federal Regulations states, in part, that a contribution by an LLC that elects to be treated as a partnership by the Internal Revenue Service shall be considered a contribution from a partnership.

Section 110.1(g)(4) of Title 11 of the Code of Federal Regulations states, in part, that a contribution by an LLC with a single natural person member that does not elect to be treated as a corporation by the Internal Revenue Service shall be attributed only to that single member.

Section 110.1(g)(5) of Title 11 of the Code of Federal Regulations states, in part, that an LLC that makes a contribution pursuant to paragraph (g)(2) or (g)(4) of this section shall, at the time it makes the contribution, provide information to the recipient committee as to how the contribution is to be attributed, and affirm to the recipient committee that it is eligible to make the contribution.

The Audit staff's review of contributions and source documentation made available during fieldwork identified 5 contributions from limited liability companies (LLC) totaling \$6,125. No documentation was located within DCM's files to establish the permissibility of these contributions. As noted above, an LLC must provide information to the committee that it is eligible to make such contributions. DCM did not

deposit any of the contributions into a separate account and did not maintain sufficient funds to refund these contributions.

This matter was discussed with DCM's representative at the exit conference and a schedule of the items was provided. The representative agreed to obtain the required documentation from the contributors.

In the interim audit report, the Audit staff recommended that DCM provide evidence and/or documentation that demonstrated the contributions in question were not from prohibited sources. Such documentation was to include materials such as a signed statement from each LLC or a copy of an IRS Form 8832 (Entity Classification Election) that indicated the entity had not elected to be treated as a corporation by the Internal Revenue Service and was therefore eligible to make a contribution. Absent such evidence, it was recommended that DCM refund \$6,125 from their federal account(s) and present evidence of such refunds (copies of the front and back of the negotiated refund checks). If sufficient funds were not available to make the refunds, the excessive contribution amounts were to be disclosed as debts owed to the contributors on Schedule D until such time that funds became available.

DCM provided signed statements from three of the entities documenting they were not corporations and therefore eligible to make the contributions. The remaining two prohibited contributions, totaling \$75, were refunded. DCM provided a copy of one negotiated refund check (\$25) and stated that it would submit a copy of the remaining check once it clears the bank.

### **C. 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 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.

Section 104.18(f) of Title 11 of the Code of Federal Regulations<sup>2</sup> states, in part, that if a committee files an amendment to a report that was filed electronically, it shall also submit the amendment in an electronic format. The committee shall submit a complete version of the report as amended, rather than just those portions of the report that are being amended.

The Audit staff reviewed reported contributions from individuals on a sample basis to determine if the necessary contributor information was disclosed. The testing revealed that DCM did not disclose the occupation and/or name of employer for a significant number (43%) of contributions. The word "requested" was filled in for most of the contributions for which information was missing, but DCM was not able to demonstrate that it had made any follow-up request for the information.

At the exit conference, DCM's representative indicated that letters had been sent to many contributors requesting missing occupation and/or name of employer information but supporting documentation could not be found. The representative indicated that she would continue to look for the information and forward it to us if located. If the documentation was not located, the representative agreed to attempt to obtain the missing information, provide documentation of such efforts and file amended reports to disclose any information obtained.

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

- Provide documentation which demonstrated that best efforts were used to obtain, maintain, and submit the required disclosure information; or
- Attempt to contact those individuals for whom the required information was missing or incomplete, in accordance with 11 CFR §104.7; provide documentation of such effort, 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.<sup>3</sup>

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<sup>2</sup> The cite in effect during the audit period was 11 CFR §104.18(d).

<sup>3</sup> Since DCM filed disclosure reports electronically beginning in calendar year 2000, complete electronic amended reports are required.

In response to the interim audit report, DCM provided copies of letters sent to contributors requesting the required information. Further, DCM filed the necessary amendments to correct the deficiencies noted above.

#### **D. DISCLOSURE OF DEBTS AND OBLIGATIONS**

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

Section 104.11(a) of Title 11 of the Code of Federal Regulations states, in part, that debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. A debt or obligation, 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 which is over \$500 shall be reported as of the date on which the debt or obligation is incurred, except that any obligation incurred for rent, salary or other regularly reoccurring administrative expense shall not be reported as a debt before the payment due date.

The Audit staff's review of all disbursements identified five debts, totaling \$95,544, which were not reported. In order to derive the total debts, each outstanding debt was counted only once, even if it was outstanding for several periods. Two of these items, comprising 85% of the dollar total of the five items omitted, were travel related expenses that had been disputed at the time but later paid in full by DCM.

At the exit conference, a DCM representative was given a schedule of the debts and the reporting periods for which the debt should have been disclosed. The representative agreed to file amended reports to correct the debt reporting errors.

In the interim audit report, the Audit staff recommended that DCM file amended Summary Page and Schedules D for the Mid-Year 1999 Report through the Year-End 2000 Report to disclose the outstanding obligations.<sup>4</sup>

In response to the recommendation, DCM filed amended reports that materially correct the disclosure problems noted above.

#### **E. SHARED FUNDRAISING EVENTS**

Section 104.10(b)(2) of Title 11 of the Code of Federal Regulations states, in part, that a political committee that has established separate federal and non-federal accounts shall allocate between those accounts its costs for fundraising according to 11

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<sup>4</sup> See Footnote 3



CFR 106.5 (the fundraising costs shall be allocated between the federal and non-federal accounts in the same ratio as the contributions received) and in each report disclosing a disbursement for the direct costs of a fundraising program or an exempt activity, the committee shall state the allocation ratio calculated for the program or activity and shall explain the manner in which the ratio was derived.

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 shall also report each disbursement from its federal account or its separate allocation 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 was made, and the date, amount and purpose of each such disbursement. If the disbursement includes payment for the allocable costs of more than one activity, the committee shall itemize the disbursement, showing the amounts designated for payment of administrative expenses and generic voter drives, and for each fundraising program or exempt activity. The committee shall also report the total amount expended by the committee that year, to date, for each category of activity.

Section 104.10(b)(5) of Title 11 of the Code of Federal Regulations states that the treasurer shall retain all documents supporting the committee's allocated disbursements for three years, in accordance with 11 CFR 104.14.

DCM disclosed five shared fundraising events on Schedule H2 (Allocation Ratios). However, DCM could not provide sufficient documentation, by fundraising event, to support the allocation ratios disclosed. Using DCM's electronic accounting records, which identified the source of a contribution by project code, the Audit staff's calculation of the fundraising ratios for three of the events was materially different than DCM's.<sup>5</sup>

At the exit conference, a DCM representative was provided workpapers pertaining to the Schedule H2 discrepancies. The representative agreed to research the matter and provide additional information and/or documentation pertaining to the shared fundraising events discussed above.

In the interim audit report, the Audit staff recommended that DCM provide the following with respect to the three shared fundraising events:

- A detailed accounting of all shared fundraising receipts, including workpapers identifying receipts by fundraiser, deposited into the federal and non-federal accounts;
- A detailed accounting of all expenses, identified by fundraiser;

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<sup>5</sup> Shared fundraising expenses were allocated between the federal and non-federal accounts based on the Schedule H2 allocation ratios.

- Detailed workpapers supporting the correct allocation ratio for each shared fundraising event; and
- Amended Schedules H2 and H4 (Joint Federal/Non-Federal Activity Schedule) as appropriate.

In response to the interim audit report, DCM provided a narrative that addressed each shared fundraising event and a spreadsheet supported by a detailed accounting of all fundraising receipts for the events in question. Each spreadsheet included the event name, total federal and non-federal receipts, a detailed accounting of all expenses and a revised allocation ratio.

Finally, DCM filed amended Schedules H2 and Schedules H4 that materially correct the disclosure of its shared fundraising activity.



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 24, 2003

Mr. Gary Gensler, Treasurer  
Democratic State Central Committee of Maryland  
188 Main Street, Suite 1  
Annapolis, MD 21401

Dear Mr. Gensler:

Attached, please find the Report of the Audit Division on the Democratic State Central Committee of Maryland. The Commission approved this report on March 19, 2003.

The Commission approved Final Audit Report will be placed on the public record on April 2, 2003. Should you have any questions regarding the public release of this report, please contact the Commission's Press Office at (202) 694-1220.

Any questions you may have related to matters covered during the audit or in the report should be directed to Paula King or Thomas J. Nurthen 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 "Joseph F. Stoltz".

Joseph F. Stoltz  
Assistant Staff Director  
Audit Division

Attachment as stated



## **CHRONOLOGY**

### **DEMOCRATIC STATE CENTRAL COMMITTEE OF MARYLAND**

Audit Fieldwork	July 22, 2002 – August 30, 2002
Interim Audit Report to Committee	January 7, 2003
Response to the Interim Audit Report Received	February 26, 2003
Final Audit Report Approved	March 19, 2003

