



Draft Final Audit Report of the Audit Division on the Republican Party of Orange County (Federal)

(January 1, 2009 - December 31, 2010)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears to have met the threshold requirements for substantial

whether it has complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

The Republican Party of Orange County (Federal) is a local party in California. For more information, see the committee organization, p. 2.

County (Federal) is a local party in California. For more information, see the committee organization, p. 2.

Financial Activity (p. 2)

• Receipts		
o Individual Contributions		\$ 299,234
o Political Committee Contributions		81,000
o Transfers from Other Committees		76,923
o Transfers from Federal Accounts		230,078
o Levin Fund		73,466
o Other		6,205
o Contributions		3,661
• Total Receipts		\$ 770,567
• Disbursements		
o Administrative Expenses		\$ 613,029
o Election Activity		149,571
o Refunds		8,850
o Loans Repaid		6,205
• Total Disbursements		\$ 777,655
• Levin Receipts		\$ 74,132
• Levin Disbursements		\$ 73,465

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Reporting of Debts and Obligations (Finding 2)
- Recordkeeping for Employees (Finding 3)
- Use of Levin Fund Transfers (Finding 4)

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Audit Division on the
Republican Party of Orange
County (Federal)**

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Part I Background

Authority for Audit

This report is based on an audit of the Republican Party of Orange County (Federal RPOC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must first 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 an internal compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission-approved procedures and factors and as a result, this audit examined:

1. the disclosure of individual contributors' occupations;
2. the disclosure of disbursements and obligations;
3. the disclosure of expenses allocated between federal and non-federal accounts;
4. the consistency between reports and actual records;
5. the completeness of reports;
6. the disclosure of expenditures; and
7. other committee records necessary to complete the audit.

Audit value; risk
name of error;
non-federal accounts;

Commission Guidance

Request for Early Commission Consideration of a Legal Question

Pursuant to the Commission's "Policy Statement Establishing a Program for Requesting Consideration of Legal Questions by the Commission," several state party committees unaffiliated with RPOC requested early consideration of a legal question raised during an audit. Specifically, the Commission addressed whether monthly time logs under 11 CFR §106.7(d)(1) were required for employees paid with 100 percent federal funds.

The Commission conducted a vote of 5-1, that 11 CFR §106.7(d)(1), does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, however, the Commission decided it will not pursue recordkeeping violations for the failure to keep time logs or to provide affidavits to account for employee salaries paid with 100 percent federal funds and reported as such. Finding 3, Recordkeeping for Employees, of this audit report does not include RPOC employees paid with 100 percent federal funds and reported as such.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	July 6, 1982
• Audit Coverage	January 1, 2009 - December 31, 2010
Headquarters	
	Tusti nia
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Four al, Two Levin and Eight
Treasurer	
• Treasurer When Audit Was Conducted	ark W.
• Treasurer During Period Covered by Audit	ark W. Bucher
Management Information	
• Attended Commission Campaign Finance Seminar	
• Who Handled Accounting and Recordkeeping Tasks	ry

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2009	\$ 6,092
Receipts	
o Individual Contributions	299,234
o Political Committee Contributions	81,000
o Transfers from Affiliates	76,923
o Transfers from Non-federal Accounts	230,078
o Transfers from Levin Account	73,466
o Loans Received	6,205
o Offsets to Operating Expenditures	3,661
Total Receipts	\$ 770,567
Disbursements	
o Operating Expenditures	613,029
o Federal Election Activity	149,571
o Contribution Refunds	8,850
o Loans Repaid	6,205
Total Disbursements	\$ 777,655
Cash-on-hand @ December 31, 2010	(\$ 996)²
Levin Cash-on-hand @ January 1, 2009	\$ 10
Total Levin Receipts	\$ 74,132
Total Levin Disbursements	\$ 73,465
Levin Cash-on-hand @ December 31, 2010	\$ 677

² RPOC overdraw its bank accounts in the amount of \$996. On January 12, 2011, RPOC's balance was no longer overdrawn.

Part III Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of RPOC's reported financial activity with its bank records revealed a misstatement of receipts and disbursements for calendar year 2009. RPOC understated its receipts by \$17,420 and disbursements by \$17,420. The misstatements were due mainly to unreported transactions from non-federal accounts and unreported in-kind contributions. In response to the Interim Audit Report recommendation, RPOC amended its reports to materially correct the misstatements noted above. (For more detail, see p. 5.)

Finding 2. Reporting of Debts and Obligations

Audit fieldwork indicated that RPOC failed to report debts and obligations of 12 vendors totaling \$60,296 on Schedule D (Debts and Obligations) of its 2010 Interim Audit Report recommendation, RPOC amended its report to include these debts and obligations. (For more detail, see p. 6.)

Finding 3. Recordkeeping for Employees

During audit fieldwork, the Audit staff determined that RPOC did not maintain monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2010, the amount of payroll for which logs were required was \$187,281. RPOC amended these payroll disbursements as allocated between federal and non-federal election activity.

An affidavit provided an affidavit that listed the time spent on federal election activities for each of its employees. In response to the Interim Audit Report recommendation, RPOC stated that, for all future payrolls, it will maintain monthly payroll logs and document the percentage of time each employee spends on federal and non-federal election activity. (For more detail, see p. 8.)

Finding 4. Use of Levin Fund Transfers

During audit fieldwork, review of Levin fund activity determined that RPOC received \$74,132 from the California Republican Party's Levin account for reimbursement of voter registration expenses. RPOC then transferred \$73,465 from its Levin account to its federal accounts, as reimbursement for voter registration expenses. In accordance with 11 CFR §300.31(a), Levin funds expended must be raised solely by the committee that expends them. In response to the Interim Audit Report recommendation, RPOC disclosed \$73,465 on Schedule D of its 2013 November monthly report as a debt to its Levin account. (For more detail, see p. 9.)

Part IV Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of RPOC's reported financial activity with its bank records revealed a misstatement of receipts and disbursements for calendar year 2009. RPOC understated its receipts by \$17,420 and disbursements by \$17,420. The misstatements were due mainly to unreported transfers to and from non-federal accounts and unreported in-kind contributions. In response to the Interim Audit Report recommendation, RPOC amended its reports to correct the misstatements noted above.

Legal Standard

A. Contents of Reports. Each report must include the following information:
• the amount of cash-on-hand at the beginning and end of the reporting period;
• the total amount of receipts for the reporting period and for the calendar year;
• the total amount of disbursements for the reporting period and for the calendar year; and
• certain transactions that require disclosure on Schedule A (Itemized Receipts) or Schedule I (Disbursements), including those required by §434(b)(1), (2), (3), (4) and (5).

B. Definition of Contribution. A gift, subscription, loan, advance, or deposit of money.
• a gift, subscription, loan, advance, or deposit of money or anything of value made by any person, including the candidate, or any election for Federal office is a contribution.
• any contribution in-kind is a contribution.
• any gift or service without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution. 11 CFR 100.52(a) & (b).

Facts and Analysis

A. Facts

During audit fieldwork, a comparison of RPOC's reported financial activity with its bank records revealed a misstatement of receipts and disbursements for calendar year 2009. The following chart details the discrepancies between RPOC's disclosure reports and its bank records. Succeeding paragraphs explain why the discrepancies occurred.

2009 Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash-on-Hand @ January 1, 2009	\$6,092	\$6,092	\$0
Receipts	\$311,572	\$328,992	(\$17,420) Understated
Disbursements	\$303,419	\$320,839	(\$17,420) Understated
Ending Cash-on-Hand @ December 31, 2009	\$14,245	245	\$0

The understatement of receipts resulted from the following:

• Under reporting of receipts		\$ 10,631
• In-kind contribution, not reported as receipt		10,000 ³
• In-kind rent for December, not reported as a receipt		3,904
• Duplicate reported receipt (in-kind contribution)		(5,000) ⁴
• Unexplained difference		(2,115)
Net Understatement of Receipts		<u>\$ 17,420</u>

The understatement of disbursements resulted from the following:

• In-kind contribution, not reported as disbursement		\$ 10,000
• Disbursement reported as contribution		9,382
• In-kind rent for December, not reported as disbursement		3,904
• Disbursement reported as contribution		(866)
• Duplicate reported disbursement (contribution)		(5,000)
Net Understatement of Disbursements		<u>\$ 17,420</u>

B. Interim Audit Report & Audit Division Recommendation

At an audit conference provided to the OC's treasurer with workpapers to describe the misstatements, the treasurer asked general questions regarding the reports and recommendations.

The Interim Audit Report recommended that RPOC amend its disclosure reports to correct the misstatements regarding receipts and disbursements for 2009.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOC amended its reports to materially correct the misstatements.

³ This was a partial payment for a fundraising event.

⁴ RPOC originally reported this as a loan and repayment. It was later reported as an in-kind contribution.

Finding 2. Reporting of Debts and Obligations

Summary

Audit fieldwork indicated that RPOC failed to report debts and obligations for 12 vendors totaling \$60,296 on Schedule D (Debts and Obligations). In response to the Interim Audit Report recommendation, RPOC amended its reports to materially include these debts and obligations.

Legal Standard

A. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations until they are extinguished. 2 U.S.C. §434(b)(8) and 11 CFR §§104.3(d) and 104.

B. Separate Schedules. A political committee must file separate schedules for debts owed by and to the committee with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).

C. Itemizing Debts and Obligations.

- Once it has been outstanding 60 days from the date incurred, a debt of \$500 or less must be reported on the next regularly scheduled report.
- A debt exceeding \$500 must be reported in the report that covers the date on which the debt was incurred. 11 CFR § 104.11

Facts and Analysis

A. Facts

During audit fieldwork, the audit staff reviewed disbursement records and disclosure reports for proper reporting of obligations. This review identified debts owed to 12 vendors totaling \$60,296 that failed to report on Schedule D. Of these debts, \$48,636 was incurred during the audit period and \$11,660 was incurred prior to the audit period and remained outstanding as of the beginning of the audit period. It should be noted that RPOC did disclose debts owed to some of these vendors during the audit period. However, the debt amounts identified by the Audit staff above were not included in the debt amounts reported.

B. Interim Audit Report and Audit Division Recommendation

At the exit conference, the audit staff discussed the reporting of debts and obligations with RPOC's treasurer and provided schedules detailing the transactions requiring disclosure. The treasurer had no comments on this matter.

The Interim Audit Report recommended that RPOC amend its disclosure reports to correctly include debts and obligations of \$60,296 on Schedule D.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOC amended its reports to materially include these debts and obligations. In addition, RPOC stated that it has tightened procedures for reporting accounts payable. RPOC also added that staff and

board members have been informed that all its obligations need to be reported to the treasurer at the time they are incurred.

Finding 3. Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that RPOC did not maintain monthly payroll logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the amount of payroll for which logs were required was \$187,281. RPOC reported these payroll disbursements as allocated between federal and non-federal funds.

After audit fieldwork, RPOC provided an affidavit that the time spent on federal election activities for each of its employees. In response to the Interim Audit Report recommendation, RPOC stated that, for all future payrolls, it will maintain monthly payroll logs and document the percentage of time spent on federal and non-federal election activity.

Legal Standard

Maintenance of Monthly Logs
percentage of time each employee spends in connection with a federal election. Allocations of salaries, wages, and benefits are

- Employees who spend 25 percent or more of their time in a given month on federal election activities must have their compensated time in a given month allocated either from the federal account or be allocated only with funds that comply with State law.
- Employees who spend more than 25 percent of their time in a given month on federal election activities must have their compensated time in a given month paid only from a federal account; and, if compensated time in a given month is allocated with funds that comply with State law.
- Employees who spend 25 percent or less of their time in a given month on federal election activities may have their compensated time in a given month allocated either from the federal account or be allocated only with funds that comply with State law.

Employees who spend 25 percent or more of their time in a given month on federal election activities must have their compensated time in a given month allocated either from the federal account or be allocated only with funds that comply with State law.

Employees who spend more than 25 percent of their time in a given month on federal election activities must have their compensated time in a given month paid only from a federal account; and, if compensated time in a given month is allocated with funds that comply with State law.

Employees who spend 25 percent or less of their time in a given month on federal election activities may have their compensated time in a given month allocated either from the federal account or be allocated only with funds that comply with State law.

Facts and Analysis

A. Facts

During fieldwork, the Audit staff reviewed payroll disbursements totaling \$187,281.⁵ RPOC did not maintain any monthly payroll logs or equivalent records to document the percentage of time each employee spent in connection with federal election activity. These logs are required to document the proper allocation of federal and non-federal funds used to pay employee salaries and wages. This entire amount (\$187,281) represents payroll disbursements allocated between federal and non-federal funds during the audit period. RPOC had no employees paid exclusively from a non-federal account.

RPOC's staffing consisted of eight individuals all of whom were hired via an employment company. In its reports, RPOC disclosed the purpose of the payroll expenditures as "Leased Employees." In addition, RPOC included a statement in its

⁵ This total does not include payroll for employees paid with 100 percent federal funds (see Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question, page 1).

reports noting that the time spent on federal election activity and federal campaigns was tracked on a monthly basis and no employee spent 25 percent or more of their compensated time on federal election activity. RPOC did not maintain a monthly time log to support its statement above and as required by 11 CFR §106.7(d)(1).

B. Interim Audit Report & Audit Division Recommendation

At the exit conference and during audit fieldwork, the Audit staff discussed the payroll recordkeeping matter with RPOC's treasurer. At the exit conference, the treasurer provided an affidavit from RPOC's chairman that listed the time spent on federal election activities for its employees. This document, however, did not resolve the recordkeeping finding because RPOC provided the affidavit only after notified of the recordkeeping requirement during the audit.

The Interim Audit Report recommended that, for all payrolls, RPOC implement a plan to maintain monthly payroll logs to track the percentage of time each employee spends on federal election activity.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, RPOC stated that, for all future payrolls, it will maintain monthly payroll logs and document the amount of hours spent on federal and local election activity. RPOC stated that it will document the amount of hours spent on federal and local election activity on a semi-monthly basis in a spreadsheet.

Finding 4. Use of Levin Fund Transfers

Summary

During audit fieldwork, the Audit staff determined that RPOC received \$7 million of Levin funds from its Levin account for reimbursement of various expenses. RPOC transferred \$73,465 from its Levin account to its federal accounts, as reimbursement for voting and administration expenses. In accordance with 11 CFR §300.31(a), Levin funds expended must be raised solely by the committee that expends them. In response to the Interim Audit Report recommendation, RPOC disclosed \$73,465 on Schedule D of its 2013 November monthly report as a debt to its Levin account.

Legal Standard

A. Expending of Levin Funds. Levin funds expended or disbursed by any State, district or local committee must be raised solely by the committee that expends or disburses them. Consequently, funds from national party committees, other State, district and local committees and Federal candidates or officeholders, may not be accepted as Levin funds. 11 CFR §§300.31(a) and 300.34(b). This includes any entity directly or indirectly established, financed, maintained or controlled by any national, State, district or local committee of a political party. 2 U.S.C. §441i(b)(2)(B)(iv).

B. Levin Fund Transfers. A State, district, or local committee of a political party must not use any Federal funds transferred to it from or otherwise accepted by it from any other State, district, or local committee as the Federal component of an expenditure or

disbursement for Federal election activity under 11 CFR §300.32. A State, district, or local committee of a political party must itself raise the Federal component of an expenditure or disbursement allocated between federal funds and Levin funds under 11 CFR §§300.32 and 300.33. 11 CFR §300.34(a).

Levin funds must be raised solely by the State, district, or local committee of a political party that expends or disburses the funds. A State, district, or local committee of a political party must not use as Levin funds any funds transferred or otherwise provided to the committee by any State, district, or local committee of a political party of the national committee of any political party. 11 CFR §300.34(b).

Facts and Analysis

A. Facts

During the audit period, RPOC made 23 transfers, \$73,465, from its Levin account to its federal accounts and reported these transfers on Schedule H5 (Transfers of Levin Funds Received for Allocated Federal Election Activity). All of the Levin funds expended by RPOC⁶ (\$73,465) were received from the California Republican Party's Levin account, which transferred \$74,132 to RPOC's Levin account.

While there is no prohibition on the California Republican Party (CRP) transferring Levin funds to local party committees under 11 CFR §300.34(b), there is a prohibition on local committees using funds transferred by a party or Levin shares of disbursements allocated between federal and Levin funds.⁷ As such, RPOC did not demonstrate that the Levin funds it raised solely by the local committee that expends the funds.

B. Interim Audit Report & Audit Division Recommendation

At the time of the interim audit, the audit division discussed this matter with RPOC's representative and he explained that RPOC was raising this matter.

The interim audit recommended that RPOC demonstrate that it solely raised the expended Levin funds. Absent such demonstration, it was recommended that RPOC refund its Levin account \$73,465 from its federal account and provide evidence of this refund.

C. Committee Response to Interim Audit Report

In response to the interim audit report recommendation, RPOC added the Levin fund transfers (\$73,465) to its Schedule D on the 2013 November monthly report, as a debt owed to its Levin account.⁸

However, RPOC contends that the Commission should not accept this finding. RPOC stated that it is a vendor to CRP and its agent in conducting voter registration activities in

⁶ RPOC had a beginning cash balance of \$10 in its Levin account that was not transferred from the California Republican Party.

⁷ This matter was addressed in a Request for Commission Directive 69 Guidance involving the Democratic State Central Committee of California (LRA #819) dated April 22, 2011.

⁸ As of April 30, 2014, this amount remains outstanding on Schedule D and the reported cash-on-hand balance is \$3,802.

Orange County. RPOC noted that it has operated under the CRP's "Operation Bounty" agreement by which RPOC is compensated by the CRP on the basis of valid Republican voter registrations it obtains and which the CRP verifies as valid voter registrations throughout each election cycle. RPOC stated that, for the 2010-2011 election cycle, this included registrations obtained outside the Federal Election Activity (FEA), Type II⁹ period, as well as, registrations obtained during the FEA, Type II period. RPOC stated that it received consideration in the form of payment per valid registration to defray its cost in obtaining, processing, verifying and submitting the voter registrations to CRP through the Operation Bounty program. RPOC contends that without the Operation Bounty reimbursement, it would be less likely and able to conduct effective voter registrations using the volunteer resources of Republican volunteer organizations, groups and activists. Further, RPOC stated that the Operation Bounty program is a bona fide party building program, which engages Republican groups and individual Republican activists in voter outreach, voter communication and spreading the Republican identification and brand in the community. RPOC further added that if the CRP was not able to utilize the RPOC as its preferred vendor, CRP would have to seek alternatives, such as commercial vendors, which do not offer the operational party building benefits that the RPOC-CRP relationship provides.

RPOC contests whether this finding should be approved by the Commission on both statutory and constitutional grounds. RPOC stated that it is not prohibited from using non-federal funds transferred by a state or district committee of a political party to reimburse its federal account for a portion of the costs for voter registration conducted outside the FEA, Type II period as set forth in Commission regulation 11 CFR §300.32(b)(1)(i). RPOC stated that a state or local committee of a political party is not prohibited from paying for voter registration activities through a state, local or district committee of a political party using Levin funds for voter registration activity during the FEA, Type II period under 11 CFR §300.32(b)(1)(i).

In connection with this finding, RPOC should allow it to accept and use Levin funds obtained in connection with its contract through Operation Bounty as a matter of contract and agreement. RPOC also noted that the Commission should not enforce 2 U.S.C. §300.32(b)(1)(i) because it feels such enforcement would violate the equal protection clause of the Fourteenth Amendment to the United States Constitution. RPOC believes this would discriminate against a political party and its members for engaging in voter registration political activity using Levin funds received in connection with its contract with the CRP. RPOC further added that such a decision would not apply to other vendors that contract to engage in voter registration activity payable with Levin funds.

⁹ The Audit staff believes RPOC is actually referring to FEA, Type I. These are voter registration activities conducted by a state or local political party committee within a period starting 120 days before the date of a scheduled federal election and ending on the date of the election. The FEA, Type I periods were 2/08/10 – 6/08/10 for the 2010 CA Primary election and 7/05/10 – 11/02/10 for the 2010 General election.

RPOC stated that guidance provided by the Commission's Reports Analysis Division and the CRP Final Audit Report of the Commission both confirm payments to local committees for voter registration activities were within the statute and the regulations. The Audit staff does not dispute this fact. CRP transferred Levin funds to RPOC, which is not prohibited by the Act. However, RPOC used the transferred funds for Type I FEA - voter registration activities, which is not permitted under 11 CFR §300.31(a). This is the distinction between the activities performed by these two committees.

Based on the above, the Audit staff considers that RPOC improperly spent \$73,465 on Type I FEA - voter registration activities using Levin funds transferred from CRP.