



Interim 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 not to have met the threshold requirements for substantial compliance with the Act. The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

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

About the Committee (p. 2)

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

Financial Activity (p. 2)

• Receipts	
○ Individual Contributions	\$ 299,234
○ Political Committee Contributions	81,000
○ Transfers from Affiliates	76,923
○ Transfers from Non-federal Accounts	230,078
○ Transfers from Levin Account	73,466
○ Loans Received	6,205
○ Offsets to Operating Expenditures	3,661
Total Receipts	\$ 770,567
• Disbursements	
○ Operating Expenditures	\$ 613,029
○ Federal Election Activity	149,571
○ Contribution Refunds	8,850
○ Loans Repaid	6,205
Total Disbursements	\$ 777,655
• Levin Receipts	\$ 74,132
• Levin Disbursements	\$ 73,466

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)

¹ 2 U.S.C. §438(b).

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

(January 1, 2009 – December 31, 2010)



Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Commission Guidance	1
Part II. Overview of Committee	
Committee Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Findings and Recommendations	4
Part IV. Findings and Recommendations	
Finding 1. Misstatement of Financial Activity	5
Finding 2. Reporting of Debts and Obligations	7
Finding 3. Recordkeeping for Employees	8
Finding 4. Use of Levin Fund Transfers	9

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 perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the disclosure of individual contributors' occupation and name of employer;
2. the disclosure of disbursements, debts and obligations;
3. the disclosure of expenses allocated between federal and non-federal accounts;
4. the consistency between reported figures and bank records;
5. the completeness of records;
6. the disclosure of independent expenditures; and
7. other committee operations necessary to the review.

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 concluded, by a vote of 5-1, that 11 CFR §106.7(d)(1), does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, however, the Commission decided it will not pursue recordkeeping violations for the failure to keep time logs or to provide affidavits to account for employee salaries paid with 100 percent federal funds and reported as such. 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	Tustin, California
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Four Federal, Two Levin and Eight Non-federal
Treasurer	
• Treasurer When Audit Was Conducted	Mark W. Bucher
• Treasurer During Period Covered by Audit	Mark W. Bucher
Management Information	
• Attended Commission Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Paid Company

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	\$ 73,466
Levin Cash-on-hand @ December 31, 2010	\$ 676

² RPOC overdrawed 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 transfers to and from non-federal accounts and unreported in-kind contributions. The Audit staff recommends that RPOC amend its disclosure reports to correct the misstatements of its receipts and disbursements for 2009. (For more detail, see p. 5.)

Finding 2. Reporting of Debts and Obligations

Audit fieldwork indicated that RPOC failed to report debts and obligations for 12 vendors totaling \$60,296 on Schedule D (Debts and Obligations). The Audit staff recommends that RPOC amend its disclosure reports to correctly include debts and obligations of \$60,296 on Schedule D. (For more detail, see p. 7.)

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 2009 and 2010, the amount of payroll for which logs were required was \$187,281³. This entire payroll amount was allocated between federal and non-federal funds.

After audit fieldwork, RPOC provided an affidavit that listed the time spent on federal election activities for each of its employees. The Audit staff recommends that RPOC implement a plan to maintain monthly payroll logs to track the percentage of time each employee spends on federal election activity. (For more detail, see p. 8.)

Finding 4. Use of Levin Fund Transfers

During audit fieldwork, a 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. The Audit staff recommends that RPOC demonstrate that it solely raised the expended Levin funds. Absent such demonstration, RPOC's federal account should refund \$73,465 to its Levin account and provide evidence of such refund. (For more detail, see p. 9.)

³ 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).

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. The Audit staff recommends that RPOC amend its disclosure reports to correct the misstatements of its receipts and disbursements for 2009.

Legal Standard

A. Contents of Reports. Each report must disclose:

- 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 itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4) and (5)

B. Definition of Contribution. 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 for the purpose of influencing any election for Federal office is a contribution.
- the term anything of value includes all in-kind contributions.
- the provision of any goods or services 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) & (d)(1)

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	\$14,245	\$0

The understatement of receipts resulted from the following.

• Under reporting of receipts	\$ 10,631
• In-kind contribution, not reported as a receipt	10,000 ⁴
• In-kind rent for December, not reported as a receipt	3,904
• Duplicate reported receipt (in-kind contribution)	(5,000) ⁵
• 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 a disbursement	\$ 10,000
• Disbursements not reported	9,382
• In-kind rent for December, not reported as a disbursement	3,904
• Disbursements over-reported	(866)
• Duplicate reported disbursement (in-kind contribution)	(5,000)
Net Understatement of Disbursements	<u>\$ 17,420</u>

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, Audit staff provided RPOC's treasurer with workpapers detailing the misstatements. The treasurer asked general questions regarding the reporting requirements.

The Audit staff recommends that, within 30 calendar days of service of this report, RPOC amend its disclosure reports to correct the misstatement of its receipts and disbursements for 2009, as noted above.

⁴ This was a partial payment for a fundraising event.

⁵ 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). The Audit staff recommends that RPOC amend its disclosure reports to correctly include debts and obligations of \$60,296 on Schedule D.

Legal Standard

A. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 2 U.S.C. §434(b)(8) and 11 CFR §§104.3(d) and 104.11(a).

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 disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursement records and disclosure reports for proper reporting of debts and obligations. This review identified debts owed to 12 vendors totaling \$60,296 that RPOC 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 & Audit Division Recommendation

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 Audit staff recommends that, within 30 calendar days of service of this report, RPOC amend its disclosure reports to correctly include debts and obligations of \$60,296 on Schedule D.

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 \$187,281⁶. This entire payroll amount was allocated between federal and non-federal funds.

After audit fieldwork, RPOC provided an affidavit that listed the time spent on federal election activities for each of its employees. The Audit staff recommends that RPOC implement a plan to maintain monthly payroll logs to track the percentage of time each employee spends on federal election activity.

Legal Standard

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

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

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

Facts and Analysis

A. Facts

During fieldwork, the Audit staff reviewed payroll disbursements totaling \$187,281. 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. The entire total of \$187,281 represents payroll for employees paid with an allocation of federal and non-federal funds during the audit period. RPOC had no employees paid with exclusively non-federal funds.⁷

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

⁶ 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).

⁷ As such, this finding only includes payments to RPOC employees consisting of an allocation of federal and non-federal funds. Employees paid with 100 percent federal funds are not included in this finding (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% 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, does not resolve the recordkeeping finding because RPOC provided the affidavit only after being notified of the recordkeeping requirement during the audit.

For all future payroll, the Audit staff recommends that, within 30 calendar days of service of this report, RPOC implement a plan to maintain monthly payroll logs to track the percentage of time each employee spends on federal election activity.

Finding 4. Use of Levin Fund Transfers

Summary

During audit fieldwork, a 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. The Audit staff recommends that RPOC demonstrate that it solely raised the expended Levin funds. Absent such demonstration, RPOC's federal account should refund \$73,465 to its Levin account and provide evidence of such refund.

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 and 300.34. 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 twenty-three transfers, totaling \$73,465, from its Levin account to its federal accounts and reported these transfers on Schedule H5 (Transfers of Levin Funds for Shared Federal Election Activity). All of the Levin funds expended by RPOC⁸ (\$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 transferring Levin funds to local party committees under 11 CFR §102.6, there is a prohibition on the local committees using funds transferred by a state party committee for either the federal or Levin shares of disbursements allocated between federal and Levin funds.⁹ As such, RPOC did not meet the requirement that the Levin funds must be raised solely by the committee that expends or disburses the funds.

B. Interim Audit Report & Audit Division Recommendation

At the entrance and exit conferences, the Audit staff discussed this matter with RPOC's treasurer. The treasurer had no comments regarding this matter.

The Audit staff recommends that, within 30 calendar days of service of this report, RPOC demonstrate that it solely raised the expended Levin funds. Absent such demonstration, RPOC should refund its Levin account \$73,465 from its federal account and provide evidence of such refund.

⁸ RPOC had a beginning cash balance of \$10 in its Levin account that was not transferred from the California Republican Party.

⁹ This matter was noted in a Directive 69, approved by the Commission on May 11, 2011.