



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 22, 2004

MEMORANDUM

TO: ROBERT W. BIERSACK
PRESS OFFICER
PRESS OFFICE

FROM: JOSEPH F. STOLTZ 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE AUDIT REPORT ON THE DEMOCRATIC
PARTY OF HAWAII.

Attached please find a copy of the audit report on the Democratic Party of Hawaii,
which was approved by the Commission on September 14, 2004.

The report may be released to the public on September 22, 2004.

Attachment as stated

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



Report of the Audit Division on the Democratic Party of Hawaii

January 1, 2001 – December 31, 2002

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.¹ 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 Democratic Party of Hawaii (DPH) is a state party committee headquartered in Honolulu, HI. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 305,719
○ Transfers from Non-federal Accounts for Joint Activity	275,651
○ Contributions from Political Committees	122,288
○ Transfers from Other Party Committees	41,697
○ All Other Receipts	<u>85,530</u>
○ Total Receipts	\$ 830,885
• Disbursements	
○ Operating Expenditures	\$ 764,648
○ All Other Disbursements	<u>78,259</u>
○ Total Disbursements	\$ 842,907

Findings and Recommendations (p. 3)

- Receipt of Prohibited Contributions (Finding 1)
- Receipt of Contributions that Exceed Limits (Finding 2)
- Misstatement of Financial Activity (Finding 3)
- Allocable Expenses Paid from Non-federal Accounts (Finding 4)
- Proceeds from Joint Fundraising Activity (Finding 5)
- Reporting of Debts and Obligations (Finding 6)

¹ 2 U.S.C. §438(b).

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Part I

Background

Authority for Audit

This report is based on an audit of the Democratic Party of Hawaii (DPH), 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

This audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. Disclosure of contributions and other receipts.
4. Disclosure of disbursements, debts, and obligations.
5. Disclosure of expenses allocated between federal and non-federal accounts.
6. Consistency between reported figures and bank records.
7. The completeness of records.
8. Other committee operations necessary to the review.

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. Except for the period November 7, 2002, through December 31, 2002, the period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are primarily those that were in effect prior to November 7, 2002.

Part II

Overview of Committee

Committee Organization

Important Dates	Democratic Party of Hawaii
• Date of Registration	December 17, 1986
• Audit Coverage	January 1, 2001 – December 31, 2002
Headquarters	Honolulu, Hawaii
Bank Information	
• Bank Depositories	1
• Bank Accounts	2 Federal and 2 Non-federal Checking Accounts
Treasurers	
• Treasurer When Audit Was Conducted	Yuriko Sugimura
• Treasurer During Period Covered by Audit	Yuriko Sugimura
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	No
• Who Handled Accounting and Recordkeeping Tasks	Volunteers

Overview of Financial Activity (Audited Amounts)

Cash on Hand @ January 1, 2001	\$ 25,529
Receipts	
• Contributions from Individuals	305,719
• Transfers from Non-federal Accounts for Joint Activity	275,651
• Contributions from Political Committees	122,288
• Transfers from Other Party Committees	41,697
• All Other Receipts	85,530
Total Receipts	\$ 830,885
Disbursements	
• Operating Expenditures	764,648
• All Other Disbursements	78,259
Total Disbursements	\$ 842,907
Cash on Hand @ December 31, 2002	\$ 13,507

Part III

Summaries

Findings and Recommendations

Finding 1. Receipt of Prohibited Contributions

DPH received two contributions totaling \$30,000 from the non-federal accounts of two political action committees. The Audit staff recommended that DPH provide evidence that these contributions were not from prohibited sources or transfer the funds from the federal account to the non-federal account. In response to the interim audit report, DPH did not dispute that the two contributions were impermissible and had been inadvertently deposited into the federal account. In addition, DPH filed amended disclosure reports which included Schedules D that list these items as debt payable to the non-federal account. (For more detail, see p. 5)

Finding 2. Receipt of Contributions that Exceed Limits

DPH received nine contributions that exceeded limitations by \$51,000. Four refunds (\$20,000) were made, but not timely. The Audit staff recommended that DPH provide evidence that the remaining contributions were not in excess of the limitations or refund the remaining \$31,000. In response to the interim audit report, DPH did not dispute the majority of the contributions were excessive nor that the four refunds were made untimely. DPH did provide information which proved that one contribution from a political action committee in the amount of \$5,000 was not excessive. DPH also filed amended disclosure reports that included Schedules D which listed the remaining excessive contributions (\$26,000) as debt. (For more detail, see p. 6)

Finding 3. Misstatement of Financial Activity

DPH misstated its beginning cash balance, receipts, disbursements, and ending cash balance during 2002. The Audit staff recommended that DPH amend its disclosure reports to correct the misstatements. In response to the interim audit report, DPH filed amended disclosure reports that corrected these misstatements. (For more detail, see p. 8)

Finding 4. Allocable Expenses Paid from Non-federal Accounts

DPH made 54 disbursements (\$164,640) from its two non-federal accounts that appear to be for allocable expenses. The Audit staff recommended that DPH demonstrate that these disbursements were not allocable expenditures or amend its disclosure reports to include these disbursements. In response to the interim audit report, DPH filed amended reports disclosing these items. (For more detail, see p. 9)

Finding 5. Proceeds from Joint Fundraising Activity

DPH failed to properly disclose the proceeds (\$19,128) from joint fundraising activity with the Democratic National Committee. The Audit staff recommended that DPH amend its disclosure reports to correctly disclose these receipts. In response to the interim audit report, DPH provided documentation that allowed the Audit staff to

associate reported memo entries with joint fundraising transfers. In addition, DPH filed amended reports that correctly disclosed all amounts as memo entries. (For more detail, see p. 11)

Finding 6. Reporting of Debts and Obligations

DPH failed to report debts owed to six vendors which totaled \$56,340. The Audit staff recommended that DPH amend its disclosure reports to include these debts. In response to the interim audit report, DPH provided evidence which showed that three of the items (\$22,635) did not require reporting as debt. DPH also filed amended disclosure reports which included the remaining items (\$33,705) on Schedules D. (For more detail, see p. 12)

Part IV

Findings and Recommendations

Finding 1. Receipt of Prohibited Contributions

Summary

DPH received two contributions totaling \$30,000 from the non-federal accounts of two political action committees. The Audit staff recommended DPH provide evidence that these contributions are not from prohibited sources or transfer the funds from the federal account to the non-federal account. In response to the interim audit report, DPH did not dispute that the two contributions were impermissible and had been inadvertently deposited into the federal account. In addition, DPH filed amended disclosure reports which included Schedules D that list these items as debt payable to the non-federal account.

Legal Standard

A. Federal v. Non-Federal Account. The federal account may contain only those funds that are permissible under the federal election law; the non-federal account may contain funds that are not permitted under the federal law (but are legal under state law), such as contributions that exceed the limits of the federal law and contributions from prohibited sources, such as corporations and labor organizations. 11 CFR §102.5(a)(1)(i) and (a)(3).

- B. Questionable Contributions.** If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:
1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).
 2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3(b)(4).
 3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
 4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. 11 CFR §103.3(b)(1).
 5. Within these 30 days, the committee must either:
 - Confirm the legality of the contribution; or
 - Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

Facts and Analysis

A review of all contributions from party and other political committees resulted in the identification of two impermissible contributions totaling \$30,000. DPH received \$25,000 from a non-federal account of a union political committee on October 28, 2002, designated for its non-federal account; and, \$5,000 from a non-federal account of a political action committee on November 19, 2002. It is the opinion of the Audit staff that the contributions were deposited into the federal account in error.

Based on the Audit staff's analysis of DPH bank account balances, those balances were insufficient to refund the prohibited contributions between December 2, 2002, and the end of the audit period. The balance in DPH's bank accounts on December 31, 2002, was \$13,507,² insufficient to refund both of the prohibited contributions and the excessive contributions addressed at Finding 2 below.

The Audit staff advised DPH's treasurer of the prohibited contributions. The treasurer was unaware of the impermissible nature of the contributions, but indicated a willingness to make the necessary refunds.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that DPH provide evidence that the two contributions (\$30,000) are not prohibited. Absent such evidence, DPH should have transferred \$30,000 from the federal account to the non-federal account, as it was intended, and provided evidence of the transfer (photocopies of the front and back of the negotiated instrument). If funds were not available to make the necessary refunds, the amounts due should have been disclosed on Schedule D (Debts and Obligations Excluding Loans) until funds became available to make the refunds. In response to the interim audit report, DPH did not dispute that these contributions were impermissible and acknowledged that they were inadvertently deposited into the federal account. DPH also filed amended disclosure reports which included Schedules D, listing these items as debts owed to the non-federal account.

Finding 2. Receipt of Contributions that Exceed Limits

Summary

DPH received nine contributions that exceeded limitations by \$51,000. Four refunds (\$20,000) were made, but not timely. The Audit staff recommended that DPH provide evidence that the remaining contributions were not in excess of the limitations or refund the remaining \$31,000. In response to the interim audit report, DPH did not dispute the majority of the contributions were excessive nor that the four refunds were made untimely. DPH did provide information which proved that one contribution from a political action committee in the amount of \$5,000 was not excessive. DPH also filed amended disclosure reports that included Schedules D which listed the remaining excessive contributions (\$26,000) as debt.

² DPH reported its ending cash on hand on August 29, 2004, to be \$69,639.

Legal Standard

A. Party Committee Limits. A party committee may not receive more than a total of \$5,000 per year from any one contributor. 2 U.S.C. §§441a(a)(1)(C), (2)(C) and (f); 11 CFR §§110.1(a) and (d) and 110.9(a).

B. Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable check to the donor; or
- Deposit the check into its federal account and:
 - o Keep enough money in the account to cover all potential refunds;
 - o Keep a written record explaining why the contribution may be illegal;
 - o Include this explanation on Schedule A if the contribution has to be itemized before its legality is established;
 - o Seek a reattribution or a redesignation of the excessive portion, following the instructions provided in Commission regulations; and
 - o If the committee does not receive a proper reattribution or redesignation within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii)(B).

C. Revised Regulations Applied. The Commission recently adopted new regulations that allow committees greater latitude to reattribute contributions to joint account holders and has decided to apply these regulations to current matters. The Audit staff has evaluated the excessive contributions discussed below using the new regulations.

Facts and Analysis

The Audit staff's review of contributions identified \$51,000 of contributions in excess of allowable limits had been accepted; five from individuals (\$31,000) and four from political committees (\$20,000). DPH has refunded \$20,000 to four contributors; however, these refunds were untimely, with one of the refunds being made 16 months after the contribution was deposited.

As noted in Finding 1 above, beginning in December 2002, DPH did not maintain sufficient funds to make all refunds. The balance in DPH's bank accounts on December 31, 2002 was \$13,507.³

The Audit staff provided DPH's treasurer with a schedule of the excessive contributions noted above. A discussion ensued about refunding the remaining excessive contributions and how to disclose them as a debt until sufficient funds were available to make the refunds.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that, DPH:

- Provide evidence that the identified contributions were not excessive; or

³ See Footnote 2.

- Refund the remaining \$31,000 and provide evidence of such refunds (copies of the front and back of each negotiated refund check).
- If funds were not available to make the necessary refunds, amended reports were to be filed to reflect the amounts to be refunded as debts on Schedule D (Debts and Obligations Excluding Loans) until funds became available to make the refunds.

In response to the interim audit report, DPH did not dispute the majority of the excessive contributions nor the fact that the four refunds previously made were untimely. DPH did provide information which proved that one contribution from a political action committee in the amount of \$5,000 was not excessive. DPH also filed amended disclosure reports that included Schedules D which listed the remaining \$26,000 as debt.

Finding 3. Misstatement of Financial Activity

Summary

DPH misstated its beginning cash balance, receipts, disbursements, and ending cash balance during 2002. The Audit staff recommended that DPH amend its disclosure reports to correct the misstatements. In response to the interim audit report, DPH filed amended disclosure reports that corrected these misstatements.

Legal Standard

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).

Facts and Analysis

The Audit staff reconciled reported activity to bank records for 2002. The following chart outlines the discrepancies for the beginning cash balance, receipts, disbursements and the ending cash balance on December 31, 2002. Succeeding paragraphs address the reasons for the misstatements.

2002 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2002	\$41,939	\$20,154	\$21,785 Overstated
Receipts	\$628,082	\$649,307	\$21,225 Understated
Disbursements	\$636,602	\$655,954	\$19,352 Understated
Ending Cash Balance @ December 31, 2002	\$33,419	\$13,507	\$19,912 Overstated

The \$21,785 overstatement of the beginning cash balance on January 1, 2002, could not be explained. It likely results from errors which occurred prior to the beginning of the audit period.

The understatement of receipts was the net result of the following:

● Transfers of funds from non-federal accounts not reported	+	\$ 19,994
● Contribution from a party committee not reported	+	5,000
● Disbursement reported as a receipt	-	960
● Reimbursement reported that had been deposited into a non-federal account	-	3,000
● Unexplained differences	+	<u>191</u>
Net Understatement of Receipts		\$21,225

The understatement of disbursements was the net result of the following:

● Operating expenses not reported	+	10,987
● Interest income reported as a disbursement	-	5
● Disbursement reported as a receipt	+	960
● Transfer to non-federal account not reported	+	8,490
● Unexplained differences	-	<u>1,080</u>
Net Understatement of Disbursements		\$ 19,352

The \$19,912 overstatement of the ending cash balance on December 31, 2002, was the net result of the misstatements detailed above.

At the exit conference, the Audit staff explained the misstatements and provided DPH's treasurer with schedules detailing these discrepancies. The treasurer stated that she was unaware of the misstatements but agreed to review the spreadsheets provided and to file amended disclosure reports.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that DPH amend its reports to correct the misstatements noted above, to include amended Schedules A and B as appropriate, and to amend its latest report filed to correct the cash misstatement. In response to the interim audit report, DPH filed amended reports that corrected the misstatement of reported activity and corrected the cash misstatement on the latest report it had filed.

Finding 4. Allocable Expenses Paid from Non-federal Accounts

Summary

DPH made 54 disbursements (\$164,640) from its two non-federal accounts that appear to be for allocable expenses. The Audit staff recommended that DPH demonstrate that these disbursements were not allocable expenditures or amend its disclosure reports to

include these disbursements. In response to the interim audit report, DPH filed amended reports disclosing these items.

Legal Standard

A. Paying for Allocable Expenses. Commission regulations offer party committees two ways to pay for allocable, shared federal/non-federal expenses.

- They may pay the entire amount of the shared expense from the federal account and transfer funds from the non-federal account to the federal account to cover the non-federal share of that expense; or
- They may establish a separate, federal allocation account into which the committee deposits funds from both its federal and non-federal accounts solely for the purpose of paying the allocable expenses of shared federal/non-federal activities. 11 CFR §106.5(g)(1)(i) and (ii)(A).

B. Reporting Allocable Expenses. A political committee that allocates federal/non-federal expenses must report each disbursement it makes from its federal account (or separate allocation account) to pay for a shared federal/non-federal expense. Committees report these kinds of disbursements on Schedule H-4 (Shared federal/Non-federal Activities). 11 CFR §104.10(b)(4).

C. Allocation Ratio for Administrative & Generic Voter Drive Costs. State and local party committees must allocate their administrative expenses and generic voter drive costs according to the ballot composition method. Under this method, a committee determines the ratio of federal offices to the total number of federal and non-federal offices expected on the ballot in the next general election in the state or geographic area. 11 CFR §106.5(d)(1) and (2).

Facts and Analysis

The Audit staff identified 54 payments (\$164,640) made from DPH's two non-federal accounts, for such purposes as television and radio production, television advertising, research, postage and consulting. Documentation, such as invoices, bills and receipts, was either not available or did not demonstrate that these expenditures were for solely non-federal activities

The Audit staff's analysis indicated that during the audit period the non-federal account transferred significantly less than it could have to the federal account for its share of allocable expenses. A total of \$275,636 was transferred; however, the non-federal share of allocated costs was \$603,431, leaving an additional \$327,795 which could have been transferred. Therefore, no transfer of funds by DPH to its non-federal account is required for \$164,640 in allocable expenses paid for by the non-federal account.

At the exit conference, DPH's treasurer was provided a schedule of these disbursements and advised that absent documentation to demonstrate that they are not allocable expenses, the disbursements would need to be disclosed on Schedules H-4. The treasurer

stated that these were not for shared expenses. She stated that for the 2002 election cycle, most of the party activity had been directed at state and local races, specifically the race for the governor's seat. She stated that she would provide the requested documentation.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that DPH provide documentation supporting the solely non-federal nature of the above noted expenditures. Absent such a demonstration, the Audit staff recommended that DPH amend its reports to disclose these expenditures as memo entries on Schedules H-4. In response, DPH filed amended its disclosure reports as recommended.

Finding 5. Proceeds from Joint Fundraising Activity

Summary

DPH failed to properly disclose the proceeds (\$19,128) from joint fundraising activity with the Democratic National Committee. The Audit staff recommended that DPH amend its disclosure reports to correctly disclose these receipts. In response to the interim audit report, DPH provided documentation that allowed the Audit staff to associate reported memo entries with joint fundraising transfers. In addition, DPH filed amended reports that correctly disclosed all amounts as memo entries.

Legal Standard

Itemization of Contributions From Joint Fundraising Efforts. Participating political committees must report joint fundraising proceeds in accordance with 11 CFR 102.17(c)(8) when such funds are received from the fundraising representative. 11 CFR §102.17(c)(3)(iii).

Each participating political committee reports its share of the net proceeds as a transfer-in from the fundraising representative and must also file a memo Schedule A itemizing its share of gross receipts as contributions from the original contributors to the extent required under 11 CFR 104.3(a). 11 CFR §102.17(c)(8)(i)(B).

Facts and Analysis

The Audit staff determined that DPH received a total of \$19,128 in joint fundraising proceeds from the Democratic National Committee (DNC). Although it disclosed the transfers from DNC, DPH did not itemize its share of the gross receipts as contributions from the original contributors as required on memo Schedules A for those contributors who contributed in excess of \$200. The treasurer stated that although she had received information on filing memo schedules, she had difficulty disclosing this information on DPH's disclosure reports.

The treasurer was provided a schedule of joint fundraising transfers and agreed to file memo Schedules A.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that DPH file amended disclosure reports that include memo Schedules A (for those contributors who contributed in excess of \$200) for its share of the gross joint fundraiser contributions. In response to the interim audit report, DPH provided documentation that allowed the Audit staff to associate previously reported memo entries with joint fundraising transfers. In addition, DPH filed amended reports that correctly disclosed all amounts as memo entries.

Finding 6. Reporting of Debts and Obligations

Summary

DPH failed to report debts owed to six vendors which totaled \$56,340. The Audit staff recommended that DPH amend its disclosure reports to include these debts. In response to the interim audit report, DPH provided evidence which showed that three of the items (\$22,635) did not require reporting as debt. DPH also filed amended disclosure reports which included the remaining items (\$33,705) on Schedules 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 the committee and debts owed to the committee, together 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

- A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it 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

Disclosure reports filed by DPH during the audit period did not disclose any debts owed by DPH. Based on available records and computer files, the Audit staff determined that debts of \$56,340 should have been disclosed on Schedules D (Debts Owed by the Committee).

DPH's treasurer was informed of this matter at the exit conference and later provided schedules, via email, detailing the debts requiring disclosure. She indicated that the appropriate amended disclosure reports would be filed.

Interim Audit Report Recommendations and Committee Response

The Audit staff recommended that DPH amend its reports to disclose the debts and obligations addressed above on Schedules D. In response to the interim audit report, DPH provided evidence that \$22,635 of the items were not required to be disclosed as debt and filed amended reports disclosing the remaining \$33,705 as debts and obligations on Schedules D.

