



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 29, 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 AUDIT REPORT ON THE
NORTH DAKOTA DEMOCRATIC – NONPARTISAN LEAGUE PARTY

Attached please find a copy of the audit report and related documents on the North Dakota Democratic – Nonpartisan League Party, which was approved by the Commission on May 22, 2003.

The report may be released to the public on May 29, 2003.

Attachment as stated

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



Report of the Audit Division on the North Dakota Democratic- Nonpartisan League Party

January 1, 1999 – December 31, 2000

Why the Audit Was Done

Federal law permits the Commission to conduct an audit and field investigation 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 North Dakota Democratic-Nonpartisan League Party is a state party committee headquartered in Bismarck, ND. For more information, see chart on the Committee Organization, p 2.

Financial Activity (p. 2)

- Receipts
 - Transfers from Non-Federal Accounts \$ 501,780
 - Contributions from Individuals 238,554
 - Transfers from Other Party Committees 146,874
 - Contributions from Other Political Committees 146,277
 - Loans Received 19,750
 - All Other Receipts 83,660
 - **Total Receipts** \$ 1,136,895
- Disbursements
 - Operating Expenditures \$ 995,279
 - Transfers to Non-Federal Accounts 85,000
 - Transfers to Party Committees 39,367
 - **Total Disbursements** \$ 1,119,646

Findings and Recommendations (p.3)

- Receipt of Excessive Contributions (Finding 1)
- Reporting of Receipts (Finding 2)
- Misstatement of Financial Activity (Finding 3)
- Reporting of Debts and Obligations (Finding 4)

¹ 2 U.S.C. §438(b).

**Report of the
Audit Division on the
North Dakota Democratic-
Nonpartisan League Party**

January 1, 1999 – December 31, 2000



Table of Contents

Page

- 1 **Part I. Background**
 - Authority for Audit
 - Scope of Audit
 - Changes to the Law

- 2 **Part II. Overview of Committee**
 - Committee Organization
 - Overview of Financial Activity

- 3 **Part III. Summaries**
 - Findings and Recommendations

- Part IV. Findings and Recommendations**
 - 4 Finding 1. Receipt of Excessive Contributions
 - 6 Finding 2. Reporting of Receipts
 - 8 Finding 3. Misstatement of Financial Activity
 - 9 Finding 4. Reporting of Debts and Obligations

Part I

Background

Authority for Audit

This report is based on an audit of the North Dakota Democratic-Nonpartisan League Party (NDP), 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 factors and as a result, this audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions and other receipts.
4. The disclosure of disbursements, debts, and obligations.
5. The disclosure of expenses allocated between federal and non-federal accounts.
6. The 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. 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.

Part II

Overview of Committee

Committee Organization

Important Dates	North Dakota Democratic-Nonpartisan League Party
• Date of Registration	August 29, 1972
• Audit Coverage	January 1, 1999 – December 31, 2000
Headquarters	Bismarck, ND
Bank Information	
• Bank Depositories	2
• Bank Accounts	3 Federal and 3 Non-Federal Accounts
Treasurers	
• Treasurer When Audit Was Conducted	Ken Ziegler
• Treasurer During Period Covered by Audit	Mariann Lang
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 1999	\$ 462
Receipts	
• Contributions from Individuals	\$ 238,554
• Contributions from Political Party & Other Political Committees	146,277
• Transfers from Affiliated/Other Party Committees	146,874
• Loans Received	19,750
• Offsets to Operating Expenditures	82,527
• Other Federal Receipts	1,133
• Transfers from Non-Federal Accounts for Joint Activity	501,780
Total Receipts	\$ 1,136,895
Disbursements	
• Operating Disbursements	\$ 995,279
• Transfers to Non-Federal Accounts	85,000
• Transfers to Affiliated/Other Party Committees	39,367
Total Disbursements	\$ 1,119,646
Cash on hand @ December 31, 2000	\$ 17,249

Part III Summaries

Findings and Recommendations

Finding 1. Receipt of Excessive Contributions

The NDP received contributions, in the form of loans from two individuals, which exceeded the contribution limitations by \$9,875. The loans had been reported as received from the contributors and their spouses. In response to the interim audit report, the NDP provided undated letters from the individuals and their spouses to support the attribution of the loans as disclosed on its reports. Documentation was also provided demonstrating the NDP's non-federal account had inadvertently repaid these loans, but not within the 60 days allowed for the disposition of excessive contributions. The payment by the non-federal account was an impermissible contribution to the federal account. The NDP disclosed a debt to the non-federal account that remained outstanding for fourteen months. (For more detail, see p. 4)

Finding 2. Reporting of Receipts

The NDP failed to itemize:

- Six transfers received from its non-federal accounts totaling \$102,500;
- Three offsets to operating expenditures (refunds, rebates, etc.) totaling \$36,492;
- Twenty-seven contributions from political committees totaling \$26,152; and
- Sixty-four contributions from individuals totaling \$6,903.

In addition, the NDP failed to properly disclose the name of the contributor, the amount of the contribution and/or the correct year-to-date total for fifty-five contributions from individuals totaling \$6,041. In response to the interim audit report, the NDP amended its reports to correctly disclose the receipts noted above. (For more detail, see p. 6)

Finding 3. Misstatement of Financial Activity

When the NDP's reported activity was compared to its bank records for calendar year 2000, the Audit staff found that receipts, disbursements and ending cash on hand had been misstated. In response to the interim audit report, the NDP filed comprehensive amended reports, which corrected the misstatements noted above. (For more detail, see p. 8)

Finding 4. Reporting of Debts and Obligations

The NDP failed to report debts owed to 24 vendors, which totaled as much as \$104,788 during calendar year 2000. In response to the interim audit report, the NDP filed Schedules D, by reporting period, which correctly disclosed the debts noted above. (For more detail, see p. 9)

Part IV

Findings and Recommendations

Finding 1. Receipt of Excessive Contributions

Summary

The NDP received contributions, in the form of loans from two individuals, which exceeded the contribution limitations by \$9,875. The loans had been reported as received from the contributors and their spouses. In response to the interim audit report, the NDP provided undated letters from the individuals and their spouses to support the attribution of the loans as disclosed on its reports. Documentation was also provided demonstrating the NDP's non-federal account had inadvertently repaid these loans, but not within the 60 days allowed for the disposition of excessive contributions. The payment by the non-federal account was an impermissible contribution to the federal account. The NDP disclosed a debt to the non-federal account that remained outstanding for fourteen months.

Legal Standard

Loans Defined as Contributions. The term "contribution" includes any loan made by any person for the purpose of influencing any election for federal office. A loan that exceeds the contribution limitations is unlawful whether or not it is repaid. 2 U.S.C. §431(8)(A)(i); 11 CFR §§100.7(a)(1).

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); 11 CFR §§110.1(a) and (d) and 110.9(a).

Reattribution of Excessive Contributions. FEC regulations permit committees to ask donors of excessive contributions whether they had intended their contribution to be a joint contribution from more than one person and whether they would like to *reattribute* the excess amount to the other contributor. The committee must inform the contributor that:

1. The reattribution must be signed by both contributors;
2. The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
3. The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper reattribution or refund the excessive portion to the donor. 11 CFR §§103.3(b)(3) and 110.1(k)(3)(ii)(B). Further, a political committee must retain written records concerning the reattribution in order for it to be effective. 11 CFR §110.1(l)(5).

Transfers Between Federal and Non-federal Accounts. Any portion of a transfer from a committee's non-federal account to its federal account or its allocation account that

does not meet the requirements established for paying allocable expenses shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act. 11 CFR §106.5(g)(iii).

Facts and Analysis

The Audit staff reviewed \$19,750 in loans received by the NDP on November 15, 2000. On its 30-Day Post-Election Report for 2000, the NDP disclosed the loans as having been made by four individuals. However, only the names of two individuals appeared on the cashier's check received by the NDP; no other documentation was available for the loans. Further, the NDP did not provide documentation supporting that a portion of each loan was to be reattributed to the spouses of the individuals named on the cashier's check. One of the individuals had contributed \$125 prior to the loan. The loans caused each of the two individuals to exceed the \$5,000 limitation; the excessive portions totaled \$9,875.

Interim Audit Report Recommendations

The Audit staff recommended that the NDP provide evidence demonstrating that the loans are not excessive contributions. Absent such evidence, the Audit staff recommended that the NDP refund (repay) \$9,875 and provide evidence of such refunds (copies of the front and back of the negotiated refund checks).

Committee Response to Recommendation and the Audit Staff's Assessment

In response to the interim audit report, the NDP provided undated letters entitled "Confirmation of Attribution of Loan" signed by each individual to whom the loans were attributed on its disclosure reports. The letters were obtained by the NDP to support that the original attributions, as disclosed on its reports, were accurate and in accordance with the individuals' original intent. The response concludes that the loans did not result in any excessive contributions.

In a subsequent submission, the NDP provided documentation supporting the repayment of these loans. On its 2001 Mid-Year disclosure report, the NDP reported repayment of the loans to the individuals as memo entries on Schedule B (Itemized Disbursements). On the same report, the NDP reported a debt to the non-federal account for the amount of the loans (\$19,750). According to the NDP, its non-federal account had inadvertently repaid the loans. A copy of a cancelled check indicated that on February 15, 2001, 90 days after receipt of the loans, the non-federal account paid \$29,968 to a financial institution² to extinguish the loans. According to the NDP representative this payment by the non-federal account was for the federal portion loan. The memo line of that check indicates that it was intended for the principal of the loans. On April 17, 2002, over fourteen months after the non-federal payment to the financial institution, the NDP issued a \$19,750 check to the non-federal account to extinguish that debt.

² According to the NDP's representative, the funds for the loans made by the two individuals originated from a bank loan. The loan was for \$48,000, of which \$19,750 was attributed to the NDP. The remaining \$28,250 was deposited into a non-federal account and was reported as a contribution on the NDP's state disclosure reports.

First, the Audit staff notes that the undated letters did not establish that the reattributions were accomplished within the 60-day time frame required by 11 CFR §103.3(b)(3). Further, since the cashier's check only indicated the names of two individuals, the initial attributions by the NDP on its disclosure reports have not been documented. The repayment of the loans by the non-federal account constitutes an impermissible contribution to the federal account by the non-federal account that remained outstanding for fourteen months.

Finding 2. Reporting of Receipts

Summary

The NDP failed to itemize:

- Six transfers received from its non-federal accounts totaling \$102,500;
- Three offsets to operating expenditures (refunds, rebates, etc.) totaling \$36,492;
- Twenty-seven contributions from political committees totaling \$26,152; and
- Sixty-four contributions from individuals totaling \$6,903.

In addition, the NDP failed to properly disclose the name of the contributor, the amount of the contribution and/or the correct year-to-date total for fifty-five contributions from individuals totaling \$6,041. In response to the interim audit report, the NDP amended its reports to correctly disclose the receipts noted above.

Legal Standard

When to Itemize. Political committees must itemize:

- any contribution from an individual if it exceeds \$200 per calendar year either by itself or when aggregated with other contributions from the same contributor. 2 U.S.C. §434(b)(3)(A).
- every contribution from any political committee, regardless of the amount. 2 U.S.C. §434(b)(3)(B).
- every rebate, refund, or other offset to operating expenditures in an aggregate amount or value in excess of \$200 within the calendar year. 2 U.S.C. §434(b)(3)(F).
- all transfers from its non-federal account used to pay the allocated non-federal portion of administrative/generic voter drive costs. 11 CFR §104.10(a)(2).

Definition of Itemization. Itemization of contributions and other receipts means that the recipient committee discloses, on a separate schedule, the following information:

- The amount of the contribution or other receipt;
- The date the committee received the contribution or other receipt;
- The full name and address of the contributor or of the person who provides an other receipt;
- In the case of contributions from individual contributors, the contributor's occupation and the name of his or her employer; and
- The year-to-date total of all contributions from the same contributor. 11 CFR §§100.12, 104.3(a)(4) & 104.10(a)(2) and 2 U.S.C. §434(b)(3)(A), (B) & (F).

Facts and Analysis

- **Transfers from Non-Federal Accounts for Joint Activity**
All transfers from the NDP's non-federal accounts into its federal accounts were reviewed. Six transfers, totaling \$102,500, were neither included in reported totals nor disclosed on Schedules H3 (Transfer from Nonfederal Account). See Finding 3., Misstatement of Financial Activity at page 8.
- **Offsets to Operating Expenditures (Refunds, Rebates, etc.)**
It was determined that the NDP did not include three offsets, totaling \$36,492, in its reported totals; nor were they disclosed on Schedules A (Itemized Receipts). See Finding 3., Misstatement of Financial Activity at page 8.
- **Contributions from Political Committees**
All contributions from political committees were reviewed and it was determined that the NDP did not itemize 27 totaling \$26,152 on Schedules A. Of this total, \$20,245 was received during 2000 and was not included in reported totals. See Finding 3., Misstatement of Financial Activity at page 8.
- **Contributions from Individuals**
The Audit staff reviewed all contributions from individuals and determined that the NDP did not itemize 64 such contributions totaling \$6,903 on Schedules A. It should be noted that of this amount, \$5,406 occurred during 2000 and was not included in reported totals (See Finding 3., Misstatement of Financial Activity at page 8). The majority of the errors (55) were contributions in amounts less than or equal to \$200 that, when aggregated with earlier contributions from the same contributor, exceeded \$200, and were required to be itemized. The remaining nine errors were contributions in amounts that exceeded \$200.

Further, the NDP did not properly disclose 55 contributions totaling \$6,041 on Schedules A as required. The majority of the errors (35) resulted from incorrect year-to-date totals being reported. In addition, for seven of these 35 contributions the amount was incorrectly disclosed causing an aggregation error. The remaining twenty errors occurred when the contributor's name was incorrectly disclosed.

At the exit conference the NDP representative could not explain why these receipts were not itemized since he was not involved with the committee's reporting process. The representative was given schedules detailing the receipts that were not itemized and he indicated that the proper amended reports would be filed. Subsequent to the exit conference, the NDP representative was provided schedules of the contributions that were not properly disclosed. He indicated that the amended reports to be filed would correct these errors as well.

Interim Audit Report Recommendations and Committee Response

The Audit staff recommended that the NDP file Schedules A and Schedules H3 by reporting period to properly disclose the receipts discussed above. In response to the interim audit report, the NDP complied with the recommendations.

Finding 3. Misstatement of Financial Activity

Summary

When the NDP's reported activity was compared to its bank records for calendar year 2000, the Audit staff found that receipts, disbursements and ending cash on hand had been misstated. In response to the interim audit report, the NDP filed comprehensive amended reports, which corrected the misstatements noted above.

Legal Standard

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; and
- The total amount of disbursements for the reporting period and for the calendar year. 2 U.S.C. §§434(b)(1), (2) and (4).

Facts and Analysis

The Audit staff's reconciliation of the NDP's reported financial activity to its bank activity, for the period January 1, 2000, through December 31, 2000, indicated that receipts, disbursements and ending cash on hand were misstated. The misstatements are discussed below. The NDP did not provide records to explain how the amounts shown on its disclosure reports were calculated; as such not all discrepancies could be explained.

2000 Activity	Reported	Bank Records	Discrepancy
Receipts	\$ 759,888	\$ 841,389	\$ 81,501 Understated
Disbursements	753,951	849,067	95,117 Understated
Ending Cash Balance	\$ 30,925	\$ 17,249	\$ 13,677 Overstated

The understatement of receipts resulted from:

• Contributions from political committees not reported	\$ 20,245
• Transfers received from the non-federal account not reported	102,500
• Transfers received from the non-federal account amount overstated	- 69,377
• Contributions from individuals not reported	5,406
• Transfers from affiliated party committees not reported	5,000
• Offsets to operating expenditures (i.e.- refunds) not reported	36,492
• Offsets to operating expenditures (i.e.- refunds) amount overstated	- 20,025
• Transfer from affiliate reported twice	- 919
• An unexplained understatement of receipts	2,179
Total (Net) Understatement of Receipts	<u>\$ 81,501</u>

The understatement of disbursements resulted from:

• The failure to report four transfers to a non-federal account	\$ 85,000
• The failure to report operating expenditures	11,549
• Expenditure reported twice or amount overstated	-1,362
• An unexplained overstatement of disbursements	<u>-70</u>
Total (Net) Understatement of Disbursements	<u>\$ 95,117</u>

The overstatement of ending cash on hand on December 31, 2000 by \$13,677 resulted primarily from the misstatements detailed above.

After the exit conference, the NDP representative was provided a schedule detailing the misstatements. He agreed to file amended disclosure reports.

Interim Audit Report Recommendations and Committee Response

The Audit staff recommended that the NDP file a comprehensive amended report for calendar year 2000, that was to include Summary and Detailed Summary Pages to correctly disclose its reported activity, as well as amended Schedules A, B, H3 and H4, by report period, as necessary. In response to the interim audit report, the NDP amended its reports to correct the misstatements noted above.

Finding 4. Reporting of Debts and Obligations

Summary

The NDP failed to report debts owed to 24 vendors, which totaled as much as \$104,788 during calendar year 2000. In response to the interim audit report, the NDP filed Schedules D, by reporting period, which correctly disclosed the debts noted above.

Legal Standard

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).

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).

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 the NDP during the audit period did not disclose any debts. Based on available records and computer files, reportable debts of \$104,788 to 24 vendors were identified, of which \$40,452 was paid during calendar year 2000. Debts of

\$64,336 remained outstanding on December 31, 2000 and are detailed on the chart below:

VENDOR	DEBT OWED ON 12-31-00
United Printing	\$ 31,334
Acxiom	\$ 17,445
Blaemire Communications	\$ 4,508
Kennedy Memorial Foundation	\$ 4,032
Basin Electric	\$ 2,307
The Printers	\$ 1,478
Holiday Inn – Bismarck	\$ 1,390
Kranzler-Kingsley Communications	\$ 1,000
Spherion	\$ 841
TOTAL	\$ 64,335

The NDP's representative was informed of the unreported debts at the exit conference and provided schedules of these debts. He indicated that the appropriate amendments would be filed.

Interim Audit Report Recommendations and Committee Response

The Audit staff recommended that the NDP file Schedules D (Debts Owed By The Committee), by reporting period, to disclose the debts and obligations addressed above. In response to the interim audit report, the NDP complied with this recommendation.