




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 2009

MEMORANDUM

To: Judith Ingram
Press Officer

From: Joseph F. Stoltz 
Assistant Staff Director
Audit Division

Subject: Public Issuance of the Audit Report on South Dakota Republican Party
(A05-29)

Attached please find a copy of the audit report on South Dakota Republican Party, which was approved by the Commission on July 2, 2009.

All parties involved have received informational copies of the report and the report may be released to the public July 20, 2009.

Attachment as stated

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



Report of the Audit Division on the South Dakota Republican Party

January 1, 2003 – December 31, 2004

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 South Dakota Republican Party (SDRP) is a state party committee headquartered in Pierre, SD. For more information, see the Committee Organization Chart, p. 2.

Financial Activity (p. 2)

• Federal Receipts	
○ Contributions from Individuals	\$ 6,158,820
○ Contributions from Political Committees	217,371
○ Transfers from Affiliated Party Committees	1,314,511
○ Transfers from Non-federal and Levin Funds	876,529
○ Other Federal Receipts	77,215
○ Total Receipts	\$ 8,644,446
• Federal Disbursements	
○ Operating Expenditures	\$ 4,623,676
○ Independent Expenditures	354,886
○ Federal Election Activity	2,446,057
○ Other Federal Disbursements	551,401
○ Total Disbursements	\$ 7,976,020
• Levin Receipts	\$1,666
• Levin Disbursements	\$0

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Disclosure of Occupation/Name of Employer (Finding 2)

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 South Dakota Republican Party (SDRP), 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 occupation and name of employer for contributions from individuals.
2. The disclosure of disbursements, debts and obligations.
3. The disclosure of contributions from other political committees.
4. The disclosure of expenses allocated between federal, non-federal accounts, and Levin accounts.
5. The consistency between reported figures and bank records.
6. The completeness of records.
7. Other committee operations necessary to the review.

Part II

Overview of Committee

Committee Organization

Important Dates	South Dakota Republican Party
• Date of Registration	July 14, 1975
• Audit Coverage	January 1, 2003 – December 31, 2004
Headquarters	Pierre, SD
Bank Information	
• Bank Depositories	3
• Bank Accounts	5 Federal, 1 Non-federal (Savings), 1 Levin
Treasurer	
• Treasurer When Audit Was Conducted	Thomas G. Leckey
• Treasurer During Period Covered by Audit	Thomas G. Leckey
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• 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, 2003	\$ 118,210
○ Contributions from Individuals	6,158,820
○ Contributions from Other Political Committees	217,371
○ Transfers from Affiliated Party Committees	1,314,511
○ Transfers from Non-federal and Levin Funds	876,529
○ Other Receipts	77,215
Total Receipts	\$ 8,644,446
○ Operating Expenditures	4,623,676
○ Independent Expenditures	354,886
○ Federal Election Activity	2,446,057
○ Other Federal Disbursements	551,401
Total Disbursements	\$ 7,976,020
Cash on hand @ December 31, 2004	\$ 786,636
Levin Cash on hand @ January 1, 2003	\$0
Total Levin Receipts	\$1,666
Total Levin Disbursements	\$0
Levin Cash on hand @ December 31, 2004	\$1,666

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

A comparison of SDRP's reported activity to bank records revealed a material misstatement of receipts and disbursements in 2003 and 2004. In 2003, receipts and disbursements were understated by \$338,654 and \$345,552, respectively. In 2004, receipts and disbursements were understated by \$1,051,962 and \$853,382, respectively. A significant amount of the understated activity relates to not reporting non-federal activity handled through its federal account. The Audit staff recommended that SDRP file amended disclosure reports to correct the misstatements for the audit period and reconcile reported activity to bank records for periods subsequent to the audit period and file amended disclosure reports, as necessary. In response to the recommendation in the interim audit report, SDRP filed amended reports that corrected the misstatements. (For more detail, see p. 4)

Finding 2. Disclosure of Occupation/Name of Employer

SDRP did not adequately disclose occupation and/or name of employer for 39% of contributions from individuals itemized on its Schedules A (Itemized Receipts). In addition, SDRP did not demonstrate that "best efforts" were exercised to obtain, maintain, and submit the information. The Audit staff recommended that SDRP provide evidence that it exercised "best efforts" or contact each contributor lacking this information, submit evidence of such contact, and disclose information received in amended reports. In response to the recommendation in the interim audit report, SDRP obtained the necessary contributor information and filed amended reports that materially corrected the disclosure errors. (For more detail, see p. 7)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

A comparison of SDRP's reported activity to bank records revealed a material misstatement of receipts and disbursements in 2003 and 2004. In 2003, receipts and disbursements were understated by \$338,654 and \$345,552, respectively. In 2004, receipts and disbursements were understated by \$1,051,962 and \$853,382, respectively. A significant amount of the understated activity relates to not reporting non-federal activity handled through its federal account. The Audit staff recommended that SDRP file amended disclosure reports to correct the misstatements for the audit period and reconcile reported activity to bank records for periods subsequent to the audit period and file amended disclosure reports, as necessary. In response to the recommendation in the interim audit report, SDRP filed amended reports that corrected the misstatements.

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; and
- The total amount of disbursements for the reporting period and for the calendar year;
- 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. Transfers from Non-Federal Accounts. Generally, a political committee may not transfer funds from its non-federal account to its federal account, except when the committee follows specific rules for paying for shared federal/non-federal election activity. 11 CFR §102.5(a)(1)(i) and 106.7(f).

Facts and Analysis

The Audit staff reconciled SDRP's reported financial activity to its bank records for 2003 and 2004. Below are charts that outline the discrepancies in both years followed by explanations of the misstatements.

2003 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ January 1, 2003	\$191,378	\$118,210	\$73,168 Overstated
Receipts	\$885,104	\$1,223,758	\$338,654 Understated
Disbursements	\$714,940	\$1,060,492	\$345,552 Understated
Ending Cash Balance @ December 31, 2003	\$361,541	\$281,477	\$80,064 Overstated

The understatement of receipts was the result of the following:

• Transfers from the non-federal account not reported	+	\$332,592
• Unexplained difference	+	6,062
• Understatement of Receipts		\$338,654

The understatement of disbursements was due to the following:

• Disbursements not reported ²	+	\$346,480
• Disbursements reported with incorrect amounts	+	2,982
• Voided disbursements reported	-	150
• Memo disbursements reported as actual disbursements	-	1,890
• Reported disbursements that did not go through bank	-	1,870
• Understatement of Disbursements		\$345,552

2004 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ January 1, 2004	\$361,541	\$281,477	\$80,064 Overstated
Receipts	\$6,368,726	\$7,420,688 ³	\$1,051,962 Understated
Disbursements	\$6,062,147	\$6,915,529	\$853,382 Understated
Ending Cash Balance @ December 31, 2004	\$668,120	\$786,636	\$118,516 Understated

² Includes payments totaling \$218,123 to the Rounds for Governor committee.

³ Includes \$19,556 in contributions erroneously deposited into the Levin Fund account. These contributions were subsequently transferred to a federal account when the error was detected.

The understatement of receipts was due to the following:

• Contributions from joint fundraiser not reported ⁴	+	119,919
• Unreported excess campaign funds from Bush-Cheney '04 (Primary) Inc.	+	150,000
• Receipts that were reported as negative disbursements ⁵	+	9,046
• Transfers from the non-federal account not reported	+	356,532
• Individual contributions not reported	+	425,535
• Unexplained Difference	-	9,070
• Understatement of Receipts		\$1,051,962

The understatement of disbursements was due to the following:

• Disbursements not reported	+	\$965,569
• Receipts that were reported as negative disbursements ⁵	+	9,046
• Disbursements reported with incorrect amounts (Net)	+	2,797
• Reported disbursements that did not go through bank	-	138,348
• Unexplained Difference	+	14,318
• Understatement of Disbursements		\$853,382

Cash Balances

SDRP misstated cash balances throughout 2003 and 2004. The overstated cash balance of \$73,168 on January 1, 2003 is unexplained, but likely resulted from misstatements occurring in prior periods. On December 31, 2004, the cash balance was understated by \$118,516 resulting from the discrepancies noted above.

The primary reason for the understatement of receipts and disbursements was SDRP's failure to properly account for non-federal activity. During the audit period, SDRP did not maintain a non-federal checking account to make disbursements considered to be solely for non-federal purposes such as contributions made to state and local candidates. Instead, SDRP made these non-federal disbursements from their federal allocation account but failed to report the activity on their FEC reports. In addition, SDRP did not report a significant amount of transfers from its non-federal savings account to the federal account. Although such transfers between the federal and non-federal accounts for non-allocable expenses are prohibited, the Audit staff's analysis indicated that non-federal funds were not used to pay for federal activity.

The Audit staff presented these matters to SDRP's Finance Director during the exit conference along with schedules detailing the discrepancies. It was also advised that, in the future, if SDRP does not wish to disclose solely non-federal activity on its FEC disclosure reports, it should establish a non-federal checking account to pay any solely non-federal expenses. The Finance Director stated that SDRP would amend its reports to correct the misstatements.

⁴ SDRP received \$119,919 in net proceeds from a joint fundraiser named 2004 Special Teams Committee. SDRP also did not itemize the gross amount of contributions totaling \$137,648 as memo entries from this event as required.

⁵ SDRP incorrectly reported \$9,046 in vendor refunds as negative disbursements. These receipts should have been reported as offsets to operating expenditures.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that SDRP file amended disclosure reports to correct the misstatements noted above. Since similar misstatements may have occurred after the audit period, it was further recommended that SDRP reconcile reported activity to bank records for periods subsequent to the audit period and file amended disclosure reports, as necessary. In response to the recommendation in the interim audit report, SDRP filed amended reports that corrected the misstatements.

Finding 2. Disclosure of Occupation/Name of Employer

Summary

SDRP did not adequately disclose occupation and/or name of employer for 39% of contributions from individuals itemized on its Schedules A (Itemized Receipts). In addition, SDRP did not demonstrate that “best efforts” were exercised to obtain, maintain, and submit the information. The Audit staff recommended that SDRP provide evidence that it exercised “best efforts” or contact each contributor lacking this information, submit evidence of such contact, and disclose information received in amended reports. In response to the recommendation in the interim audit report, SDRP obtained the necessary contributor information and filed amended reports that materially corrected the disclosure errors.

Legal Standard

A. Itemization Required for Contributions from Individuals. A political committee other than an authorized committee must itemize any contribution from an individual if it exceeds \$200 per calendar year, either by itself or when combined with other contributions from the same contributor. 2 U.S.C. §434(b)(3)(A).

B. Required Information for Contributions from Individuals. For each itemized contribution from an individual, the committee must provide the following information:

- The contributor’s full name and address (including zip code);
- The contributor’s occupation and the name of his or her employer;
- The date of receipt (the date the committee received the contribution);
- The amount of the contribution; and
- The calendar year-to-date total of all contributions from the same individual. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A).

C. Best Efforts Ensures Compliance. When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee’s reports and records will be considered in compliance with the Act. 2 U.S.C. §432(h)(2)(i).

D. Definition of Best Efforts. The treasurer and the committee will be considered to have used “best efforts” if the committee satisfied all of the following criteria:

- All written solicitations for contributions included:
 - A clear request for the contributor’s full name, mailing address, occupation, and name of employer; and
 - The statement that such reporting is required by Federal law.

- Within 30 days after the receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
- The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committee's records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).

Facts and Analysis

SDRP did not adequately disclose occupation and/or name of employer for 39% of contributions from individuals itemized on its Schedule A. Most of these contributions were disclosed with no contributor occupation and/or name of employer or with a notation of "information requested." In response to several Requests for Additional Information (RFAI's) sent by the Commission's Report Analysis Division concerning the matter, SDRP stated that "best efforts" procedures were utilized and that new contributor information was contained in amended reports.

During the entrance conference, the Audit staff asked a SDRP representative to provide documentation in support of their "best efforts" procedures. In response, the SDRP representative explained that original solicitations and follow-up letters to the contributor contained a request for the occupation and name of employer. It was further stated that any information received in return was entered directly into SDRP receipts database and no paper trail was maintained. The SDRP representative explained that disclosure reports reflected the most current contributor information at the time of filing.

The Audit staff determined that the occupation and name of employer information had been updated on Schedules A for only a small number of contributors that gave during the audit period. The updated information was limited to those contributors that had contributed more than once during the audit period and had likely provided the information in response to a subsequent solicitation and not as a result of a follow-up letter requesting the missing information. It is also noted that SDRP did not file amended disclosure reports that included any additional contributor information.

The Audit staff discussed this matter with SDRP representatives at the exit conference. SDRP representatives stated that in the future copies of the original solicitation cards, follow-up letters, and any responses from the contributors would be maintained.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that SDRP provide evidence that it exercised "best efforts" to obtain, maintain, and submit the contributor information. Absent such evidence, SDRP should contact each contributor for whom information is lacking, submit evidence of such contact, and disclose any information received in amended reports. SDRP should also submit a copy of written procedures implemented to ensure "best efforts" are exercised to obtain contributor information in the future. In response to the recommendation in the interim audit report, SDRP obtained the necessary contributor information and filed amended reports that materially corrected the disclosure errors.