




FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 12, 2009

MEMORANDUM

To: Judith Ingram  
Press Officer

From: Joseph F. Stoltz   
Assistant Staff Director  
Audit Division

Subject: Public Issuance of the Audit Report on Democrat, Republican, Independent  
Voter Education Political Campaign Committee (DRIVE)

Attached please find a copy of the audit report on Democrat, Republican, Independent Voter Education Political Campaign Committee, which was approved by the Commission on April 30, 2009.

All parties involved have received informational copies of the report and the report may be released to the public on May 12, 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 Democrat, Republican, Independent Voter Education Political Action Committee January 1, 2003 – December 31, 2004

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### 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.<sup>1</sup> 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 Democrat, Republican, Independent Voter Education Political Action Committee is a separate segregated fund of the International Brotherhood of Teamsters headquartered in Washington, DC. For more information, see chart on the Committee Organization, p.2.

### Financial Activity (p. 2)

- **Receipts**
  - From Individuals \$ 9,681,080
  - Loans received 1,000,000
  - Refunds of Federal Contributions 54,180
  - Other Federal Receipts 76,946
  - **Total Receipts** \$ 10,812,206
- **Disbursements**
  - Operating Expenditures \$ 244,747
  - Transfers to Affiliated Committees 253,014
  - Contributions to Federal Candidates 2,583,419
  - Independent Expenditures 511,614
  - Loans Repayment 500,000
  - Other Disbursements 6,936,643<sup>2</sup>
  - **Total Disbursements** \$ 11,029,437

### Findings and Recommendations (p. 3)

- Disclosure of Independent Expenditures (Finding 1)
- Disclosure of Outstanding Debt (Finding 2)
- Disclosure of Other Disbursements (Finding 3)

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<sup>1</sup> 2 U.S.C. §438(b).

<sup>2</sup> This figure primarily includes contributions to non-federal entities.

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# Part I

## Background

### **Authority for Audit**

This report is based on an audit of the Democrat, Republican, Independent Voter Education Political Action Committee (DRIVE), 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. The disclosure of contributions received.
4. The disclosure of disbursements, debts and obligations.
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

<b>Important Dates</b>	<b>DRIVE</b>
• Date of Registration	Prior to 1975
• Audit Coverage	January 1, 2003 – December 31, 2004
<b>Headquarters</b>	Washington, DC
<b>Bank Information</b>	
• Bank Depositories	3
• Bank Accounts	5
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	C. Thomas Keegel
• Treasurer During Period Covered by Audit	C. Thomas Keegel
<b>Management Information</b>	
• 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)

<b>Cash on hand @ January 1, 2003</b>	-	<b>\$ 753,608</b>
○ From Individuals		9,681,080
○ Loans Received		1,000,000
○ Refunds of Federal Contributions		54,180
○ Other Federal Receipts		76,946
<b>Total Receipts</b>		<b>\$ 10,812,206</b>
○ Operating Expenditures		244,747
○ Transfers to Affiliated Committees		253,014
○ Contributions to Federal Candidates		2,583,419
○ Independent Expenditures		511,614
○ Loans Repayment		500,000
○ Other Disbursements		6,936,643
<b>Total Disbursements</b>		<b>\$ 11,029,437</b>
<b>Cash on hand @ December 31, 2004</b>		<b>\$ 536,377</b>

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Disclosure of Independent Expenditures**

The Audit staff identified 24 independent expenditures made by DRIVE totaling \$314,650 that were not properly disclosed. DRIVE disclosed these expenditures on Schedules B (Itemized Disbursements) rather than itemizing them on Schedules E (Itemized Independent Expenditures) and did not file the corresponding 48 or 24-Hour notices that are required for qualifying independent expenditures. The Audit staff recommended that DRIVE document that these transactions were not independent expenditures or file amended reports itemizing them on Schedules E. In its response to the interim audit report, DRIVE filed amended reports which itemized the 24 independent expenditures in question on Schedules E.

(For more detail, see p. 5)

##### **Finding 2. Disclosure of Outstanding Debt**

DRIVE failed to itemize outstanding debt totaling \$227,883 owed to its two largest vendors on four of its 2004 disclosure reports. The Audit staff recommended that DRIVE amend Schedules D (Debts and Obligations) and the corresponding Summary Pages for the affected 2004 reports to disclose this debt. In its response to the interim audit report, DRIVE filed corrective amendments.

(For more detail, see p. 8)

##### **Finding 3. Disclosure of Other Disbursements**

A sample review of 'Other Disbursements' itemized on Schedules B (Itemized Disbursements) indicated that approximately 16% of expenditures lacked a disclosure of purpose. The Audit staff recommended that DRIVE file amended reports to provide the omitted purposes. In response to the recommendation in the interim audit report, DRIVE filed amended reports which materially corrected its disclosure of purposes on Schedules B.

(For more detail, see p. 9)

## Part IV

# Findings and Recommendations

### Finding 1. Disclosure of Independent Expenditures

#### Summary

The Audit staff identified 24 independent expenditures made by DRIVE totaling \$314,650 that were not properly disclosed. DRIVE disclosed these expenditures on Schedules B (Itemized Disbursements) rather than itemizing them on Schedules E (Itemized Independent Expenditures) and did not file the corresponding 48 or 24-Hour notices that are required for qualifying independent expenditures. The Audit staff recommended that DRIVE document that these transactions were not independent expenditures or file amended reports itemizing them on Schedules E. In its response to the interim audit report, DRIVE filed amended reports which itemized the 24 independent expenditures in question on Schedules E.

#### Legal Standard

**A. Definition of Independent Expenditures.** The term “independent expenditure” means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in coordination with any candidate or authorized committee or agent of a candidate. 11 CFR §100.16

**B. Clearly Identified Candidate.** The term “clearly identified” means the candidate’s name, nickname or image appears, or reference to the candidate is otherwise apparent. 11 CFR §100.17

**C. Expressly Advocating.** The term “expressly advocating” means any communication that includes a message that unmistakably urges election or defeat of one or more clearly identified candidate(s). There are two ways that a communication can be considered express advocacy: (1) by use of certain “explicit words of advocacy of election or defeat” and (2) by the “only reasonable interpretation” test. 11 CFR §100.22

**1. Explicit Words of Advocacy of Election or Defeat.** The following words convey a message of express advocacy:

- “Vote for the President,” “re-elect your Congressman,” “support the Democratic nominee,” “cast your ballot for the Republican challenger for the U.S. Senate in Georgia,” “Smith for Congress,” “Bill McKay in ‘02”;
- Words urging action with respect to candidates associated with a particular issue, e.g., “vote Pro-Life” or “vote Pro-Choice,” when accompanied by names or photographs of candidates identified as either supporting or opposing the issue;
- “Defeat” accompanied by a photograph of the opposed candidate, the opposed candidate’s name or “reject the incumbent”; and

- Communications of campaign slogan(s) or word(s), e.g., on posters, bumper stickers and advertisements, that in context can have no other reasonable meaning than to support or oppose a clearly identified candidate, for example, “Nixon’s the One,” “Carter ’76,” “Reagan/Bush.” 11 CFR §100.22(a).

2. **“Only Reasonable Interpretation” Test.** In the absence of such “explicit words of advocacy of election or defeat,” express advocacy is found in a communication that, when taken as a whole and with limited reference to external events, such as the proximity to the election, can only be interpreted by a “reasonable person” as advocating the election or defeat of one or more clearly identified candidates(s). 11 CFR §100.22(b)(1) and (2).

**D. Disclosure requirements – general guidelines:** An independent expenditure shall be reported on Schedule E, when added to other independent expenditures made to the same payee during the same calendar year, exceeds \$200. Independent expenditures are itemized on Schedule E. Independent expenditures made (i.e, publicly disseminated) prior to payment should be disclosed as “memo” entries on Schedule E and as a reportable debt on Schedule D. Independent expenditures of \$200 or less do not need to be itemized, though the committee must report the total of those expenditures on line (b) on Schedule E. 11 CFR §104.3(b)(3)(vii), 104.4(a) and 104.11

**E. Last-Minute Independent Expenditure Reports (24-Hour Notices):** Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20<sup>th</sup> day but more than 24 hours before the day of an election must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour report is required for each additional \$1,000 that aggregates. The 24-hour report must be filed on a Schedule E. The date that a communication is publicly disseminated serves as the date that the Committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000. 11 §CFR 104.4(c) and 104.5(g)

**F. Last-Minute Independent Expenditure Reports (48-Hour Notices):** Any independent expenditure aggregating \$10,000 or more with respect to any given election, at any time during a calendar year, up to and including the 20th day before an election, must disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more. 11 §CFR 104.4(f)

### **Facts and Analysis**

The Audit staff identified 24 independent expenditures (totaling \$314,650) made in 2003 and 2004 that DRIVE disclosed on Schedules B instead of Schedules E. A DRIVE official stated that they determined that these expenditures were not “independent” and consequently, disclosed them on Schedules B. No corresponding 48 or 24-Hour notices were filed.

The correspondence between the Commission’s Reports Analysis Division (RAD) and DRIVE indicates that DRIVE experienced reporting problems involving the independent



expenditures during the 2003-2004 campaign. For example, in one of its Requests for Additional Information (RFAIs), RAD inquired about the disbursements disclosed on Schedules B that were previously reported as independent expenditures on Schedules E. RAD requested clarification as to whether these disbursements were made on behalf of the previously identified federal candidates. In three RFAIs, RAD inquired about the missing purposes for independent expenditures disclosed on Schedules E. In its response, DRIVE explained the disclosure of these expenditures on Schedules E was the reporting error, amended its reports to disclose the missing information, and moved the disbursements to Schedules B.

The Audit staff reviewed DRIVE's vendor invoices, purchase orders and all other available disbursement documentation to determine if the expenditures were disclosed correctly. The documentation demonstrated that the payments were for campaign materials which included the following: 41,216 items of clothing such as T-shirts, jackets, pullovers and polo shirts; 392,650 bumper stickers; and 64,800 buttons. These items displayed logos and text in support of or against eight clearly identified federal candidates. For example, a "Teamsters for Gephardt" logo appeared on the clothing and "Teamsters for Kerry" and "Teamsters for Kerry/Edwards" logos appeared on the bumper stickers and buttons. The majority of these invoices contained the written notation "Independent Expenditures" along with the corresponding expense code (240). This same classification was keyed onto the DRIVE Disbursement Authorization forms.

The Audit staff found no evidence that these expenditures were coordinated with the named federal candidates or their committees.

At the exit conference, the Audit staff provided DRIVE representatives a list of the expenditures in question. The representatives responded that five of these expenditures *could* be classified as independent; however, the remaining ones were not. They stated that expenditures made for printed materials were shipped to local unions and then distributed to DRIVE members at member-only events. While DRIVE representatives were not aware of any documentation that would show exactly when and where the distribution of these materials took place, they could provide documentation showing dates and amounts of materials shipped to local unions. The representatives believe that all such materials were used in their member-to-member election outreach and were not intended for public display or distribution.

The DRIVE representatives did not provide any evidence relative to whether these materials were publicly displayed. While these materials may have been distributed to DRIVE's membership during various members-only functions, they might have constituted a communication beyond DRIVE's membership. Accordingly, the Audit staff determined that DRIVE should have disclosed these transactions on Schedules E and filed the appropriate 48 or 24-hour notices.

## **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that DRIVE:

- Document that the transactions in question were not independent expenditures. Absent such evidence, DRIVE should file amended reports itemizing them on Schedules E.
- Provide evidence that the required 48 or 24-Hour notices were timely filed or submit any comments it considers relevant.

In response, DRIVE filed amended reports which itemized the 24 independent expenditures in question on Schedules E.

## **Finding 2. Disclosure of Outstanding Debt**

### **Summary**

DRIVE failed to itemize outstanding debt totaling \$227,883 owed to its two largest vendors on four of its 2004 disclosure reports. The Audit staff recommended that DRIVE amend Schedules D (Debts and Obligations) and the corresponding Summary Pages for the affected 2004 reports to disclose this debt. In its response to the interim audit report, DRIVE filed corrective amendments.

### **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**

The Audit staff reconciled the accounts<sup>3</sup> of DRIVE's two largest vendors and determined that DRIVE had outstanding debt at the end of four reporting periods, primarily the second half of the calendar year 2004, that was not disclosed on Schedules D.

<sup>3</sup> The reconciliation consisted of calculating invoiced and paid amounts for individual reporting periods in the 2003 – 2004 campaign cycle. The Audit staff then determined whether any outstanding debts were correctly disclosed on Schedules D.

According to both reconciled vendor accounts, DRIVE received eight invoices totaling \$355,388 from May through November, 2004, and paid all invoiced balances usually within one calendar month. The disclosure of an outstanding debt is required when the payment date occurs after the end of the reporting period. In five instances payments were made after the reporting periods but no debt was reported. DRIVE was required to disclose the outstanding debt balance totaling \$227,883 on its following reports; 2004 June Monthly report (\$10,483); 2004 September Monthly report (\$6,435); 2004 October Monthly report (\$156,565); and 2004 Pre-General report (\$54,400).

At the exit conference, the Audit staff provided the DRIVE representatives reconciled vendor accounts detailing the unreported debt for the four reporting periods of the calendar year 2004. In their response, the DRIVE representatives agreed to amend the appropriate Schedules D and Summary Pages.

### **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that DRIVE amend Schedules D and the corresponding Summary Pages of its 2004 reports to disclose the outstanding debt. In its response to the interim audit report, DRIVE filed corrective amendments.

## **Finding 3. Disclosure of Other Disbursements**

### **Summary**

A sample review of 'Other Disbursements' itemized on Schedules B (Itemized Disbursements) indicated that approximately 16% of expenditures lacked a disclosure of purpose. The Audit staff recommended that DRIVE file amended reports to provide the omitted purposes. In response to the recommendation in the interim audit report, DRIVE filed amended reports which materially corrected its disclosure of purposes on Schedules B.

### **Legal Standard**

**A. Reporting Operating Expenditures.** When operating expenditures to the same person exceed \$200 in a calendar year, the committee must report the:

- Amount;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose (a brief description of why the disbursement was made—see below). 2 U.S.C. §434(b)(5)(A) and 11 CFR §104.3(b)(3)(i).

**B. Itemizing Transfers to Affiliated Committees.** Political party committees must itemize all transfers (i.e., the full name, address, date, amount, and purpose) regardless of amount to other political party committees. 11 CFR §104.3(b)(3)(ii).

### **C. Examples of Purpose.**

- Adequate Descriptions. Examples of adequate descriptions of "purpose" include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, catering costs, loan repayment, or contribution refund. 11 CFR §104.3(b)(3)(i)(B).



- **Inadequate Descriptions.** The following descriptions do not meet the requirement for reporting “purpose”: advance, election day expenses, other expenses, expense reimbursement, miscellaneous, outside services, get-out-the-vote, and voter registration. 11 CFR §104.3(b)(3)(i)(B).

### **Facts and Analysis**

The Audit staff reviewed ‘Other Disbursements’ on a sample basis and determined that DRIVE failed to disclose purpose for approximately 16% of the sample items. This was the largest category of disbursements totaling approximately \$6,936,640 which represented nearly 63% of all disbursements. Included in this figure were primarily non-federal contributions made by DRIVE during the 2003/2004 campaign cycle.

### **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that DRIVE amend its reports to provide the omitted purposes. In response to the recommendation in the interim audit report, DRIVE filed amended reports which materially corrected its disclosure of purposes on Schedules B.

