



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 2, 1996

MEMORANDUM

TO: RON M. HARRIS  
PRESS OFFICER  
PRESS OFFICE

FROM: ROBERT J. COSTA *RJC*  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON  
THE IDAHO REPUBLICAN PARTY FEDERAL CAMPAIGN  
ACCOUNT

Attached please find a copy of the final audit report and related documents on the Idaho Republican Party Federal Campaign Account which was approved by the Commission on July 25, 1996.

Informational copies of the report have been received by all parties involved and the report may be released to the public.

Attachment as stated

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

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**REPORT OF THE AUDIT DIVISION**

**ON**

**Idaho Republican Party  
Federal Campaign Account**

**Approved July 25, 1996**



**FEDERAL ELECTION COMMISSION  
999 E STREET, N.W.  
WASHINGTON, D.C.**

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20460

**FINAL AUDIT REPORT  
ON  
IDAHO REPUBLICAN PARTY FEDERAL CAMPAIGN ACCOUNT  
EXECUTIVE SUMMARY**

The Idaho Republican Party Federal Campaign Account (the Committee) registered with the Federal Election Commission on September 19, 1983 and maintains its headquarters in Boise, Idaho.

The audit was conducted pursuant to 2 U.S.C. Section 438(b), which states that the Commission may conduct audits of any political committee whose reports fail to meet the threshold level of compliance set by the Commission.

The findings of the audit were presented to the Committee at an exit conference held at the completion of fieldwork on September 29, 1995 and later in an interim audit report. The Committee's response to those findings are included in this final audit report.

As part of its response to the interim audit report, the Committee provided a detailed description of revised internal procedures intended to avoid the problems discussed below.

**RECEIPT OF PROHIBITED CONTRIBUTIONS - 11 CFR Sections 102.5(a)(1)(i);  
106.5(g)(1)-(2); 100.7(a)(1)**

**a. Committee Loan Secured by Prohibited Funds from the Non-Federal Account**

The Committee received a loan in the amount of \$75,000; and, as part of the loan agreement, established a certificate of deposit (CD) in the amount of \$75,000 to be used as collateral for the loan. The CD was established with a transfer from a non-federal bank account maintained by the Idaho Republican Party, which held primarily prohibited funds.

The Committee received a prohibited contribution from its non-federal account when the CD was established. Further, these prohibited funds were then used to secure a loan.

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**b. Prohibited Transfer from Non-Federal Account**

On the day the Committee repaid the loan, the Committee redeemed the CD and deposited the funds into its non-federal account thus refunding the impermissible funds received as described above. Also on that date, the non-federal account transferred \$75,521 to the federal account. Without these transactions, the federal account would not have had the funds available to repay the loan.

This transfer activity between the federal checking account and non-federal account resulted in a prohibited contribution from the non-federal account.

In response to the interim audit report, a Committee official noted that the loan guarantee and subsequent transfers were made as a result of lack of knowledge of FEC regulations with regard to the use of non-federal funds and not an attempt to circumvent Federal law or FEC regulations.

**REPORTING OF DISBURSEMENTS - 11 CFR Sections 104.10(b) and 106.5(g)(3).**

The Audit noted disclosure problems on the Schedules H-4 filed by the Committee for shared expenditures. The Committee's disclosure of 151 disbursements totaling \$169,446 either contained inaccurate information or lacked required information.

In response to the interim audit report, the Committee filed amended Schedules H-2 and H-4 which materially corrected its disclosure reports.

**MISSTATEMENT OF FINANCIAL ACTIVITY - 2 U.S.C. Sections 434(b)(1), (2), and**

(4). Reported totals for receipts and disbursements were understated by \$46,091 and \$77,458 respectively, for 1993. Beginning and ending cash were also misstated. For 1994: reported totals for receipts were understated by \$260,931; reported disbursements were overstated by \$69,875; and, beginning and ending cash were misstated.

In response to the interim audit report, the Committee filed amended disclosure reports which materially corrected the public record.

**DISCLOSURE OF CONTRIBUTIONS FROM INDIVIDUALS - 2 U.S.C Sections**

434(b)(A) and 431(13)(A); 11 CFR Sections 110.1(k)(1) and 104.7 (a)-(b). The Audit determined that there was inadequate disclosure of occupation and name of employer; and, in addition, the Committee failed to disclose the correct contributor name for approximately 42% of contributions requiring such disclosure.

In response to the interim audit report, the Committee provided copies of letters it had sent to contributors requesting occupation and name of employer information; as well as copies of some of the responses it had received.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20543

**REPORT OF THE AUDIT DIVISION  
ON THE  
IDAHO REPUBLICAN PARTY FEDERAL CAMPAIGN ACCOUNT**

**I. BACKGROUND**

**A. AUDIT AUTHORITY**

This report is based on an audit of the Idaho Republican Party Federal Campaign Account (the Committee) undertaken by the Audit Division of the Federal Election Commission in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to Section 438(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. Prior to conducting any audit under this subsection, the Commission shall 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.

**B. AUDIT COVERAGE**

The audit covered the period from January 1, 1993 through December 31, 1994.<sup>1</sup> The Committee reported a beginning cash balance at January 1, 1993 of \$48,467; total receipts for the period of \$688,722; total disbursements for the period of \$1,078,823; and an ending cash balance on December 31, 1994 of \$59,583.<sup>2</sup>

<sup>1</sup> Activity and records outside of the audit period were reviewed as necessary (see Finding II.A.).

<sup>2</sup> All figures in this report have been rounded to the nearest dollar. The amounts do not foot due to mathematical errors on the Committee's summary pages. Total receipts and total disbursements were calculated by summing the current period totals for each reporting period. These amounts differ from the figures for total receipts and total disbursements (\$916,589 and \$905,473, respectively) calculated by summing the calendar year-to-date amounts reported for 1993 and 1994 (see Finding II.C.)

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**C. COMMITTEE ORGANIZATION**

The Committee registered with the Federal Election Commission on September 19, 1983 and maintains its headquarters in Boise, Idaho. The Treasurer during the period covered by the audit was Mr. Gus Pomeroy. On September 25, 1995, Mr. Pomeroy was succeeded by Mr. Richard W. Jackson, the Committee's current Treasurer.<sup>3</sup>

To manage its federal financial activity, the Committee maintained four bank accounts at different times during the audit period. From these accounts the Committee made approximately 1,500 disbursements. Approximately 13,000 contributions (about \$502,000) from individuals were received. In addition, the Committee received 13 contributions (about \$14,000) from other political committees, one receipt (about \$30,000) from the State of Idaho Election Campaign Fund, and 23 transfers (about \$418,000) from its non-federal committee for shared expenses. The Committee also received approximately \$2,000 in interest on its bank accounts and had a \$30,000 bank loan outstanding as of December 31, 1994.<sup>4</sup>

**D. AUDIT SCOPE AND PROCEDURES**

The audit covered the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations;
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations (see Finding II.A.);
3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.D.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.B.);

<sup>3</sup> Although an amended Statement of Organization was not filed until August 1994, a Committee official stated that Mr. Pomeroy became Treasurer in January, 1993. All reports filed during the audit period were signed by Mr. Pomeroy. An amended Statement of Organization was timely filed on September 25, 1995 to designate Mr. Jackson as the current Treasurer of record.

<sup>4</sup> As presented at Finding II.C, the Committee's reports understated receipts and disbursements.

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- 5. proper disclosure of Committee debts and obligations;
- 6. accuracy of total reported receipts, disbursements and cash balances as compared to Committee bank records (see Finding II.C.);
- 7. adequate recordkeeping for Committee transactions;
- 8. proper disclosure of the allocation of costs associated with administrative expenses and activities conducted jointly on behalf of federal and non-federal elections and candidates (see Finding II.B.); and
- 9. other audit procedures that were deemed necessary in the situation.

Unless specifically discussed below, no material non-compliance was detected. It should be noted that the Commission may pursue further any of the matters discussed in this report in an enforcement action.

**II. AUDIT FINDINGS AND RECOMMENDATIONS**

**A. RECEIPT OF PROHIBITED CONTRIBUTIONS**

Section 102.5(a)(1)(i) of Title 11 of the Code of Federal Regulations states, in part, that each organization including a party committee, which finances political activity in connection with both federal and non-federal elections and which qualifies as a political committee under 11 CFR 100.5 shall establish a separate federal account in a depository in accordance with 11 CFR part 103. Such account shall be treated as a separate federal political committee which shall comply with the requirements of the Act. Only funds subject to the prohibitions and limitations of the Act shall be deposited in such separate federal account. All disbursements, contributions, expenditures and transfers by the committee in connection with any federal election shall be made from its federal account. No transfers may be made to such federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-federal elections, except as provided in 11 CFR 106.5(g) and 106.6(e).

Section 106.5(g)(1) of Title 11 of the Code of Federal Regulations states that committees that have established separate federal and non-federal accounts under 11 CFR 102.5(a)(1)(i) shall pay the expenses of joint federal and non-federal activities by choosing one of the following options: pay the entire amount of the allocable expense from its federal account and transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense; or, establish a separate allocation account into which funds from its federal and non-federal accounts are

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deposited solely for paying the allocable expenses of joint federal and non-federal activities. Committees which establish a separate allocation account are further required to make transfers from its federal and non-federal accounts to its allocation account in amounts proportionate to the federal or non-federal share of each allocable expense.

Section 106.5(g)(2)(ii) and (iii) of Title 11 of the Code of Federal Regulations states that funds transferred from a committee's non-federal account to its federal account or its allocation account are subject to the following: for each transfer, the committee must itemize in its reports the allocable activities for which the transferred funds are intended to pay as required by 11 CFR 104.10(b)(3); and, such funds may not be transferred more than 10 days before or more than 60 days after the payments for which they are designated are made. 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 of paragraph (g)(2)(ii) of this section shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act.

Section 100.7(a)(1) of Title 11 of the Code of Federal Regulations defines the term "contribution" to include all loans received by the Committee. The term "loan" is defined to include a guarantee, endorsement, or any other form of security. The section further states that for each endorser or guarantor, the loan is deemed a contribution to the extent that it remains unpaid.

1. Committee Loan Secured by Prohibited Funds from the Non-Federal Account

On October 21, 1992, the Committee received a six-month loan from West One Bank of Idaho in the amount of \$75,000. The loan had an interest rate of 5.4% and was to be repaid on April 20, 1993. The loan proceeds were deposited into the Committee's federal savings account, which made periodic transfers to its federal checking account for the payment of shared expenses.<sup>5</sup>

As part of the loan agreement, the Committee established a certificate of deposit (CD) with West One Bank of Idaho in the amount of \$75,000 to be used as collateral for the loan. The CD was established on October 21, 1992 with a \$75,750<sup>6</sup> transfer from the Committee's non-federal bank account, and had a maturity

<sup>5</sup> Throughout the audit period all of the Committee's bank accounts were maintained at West One Bank of Idaho. The Committee used the federal checking account for all federal and shared expenses during the first six months of 1993. After June 30, 1993, the Committee began paying its shared expenses as described under 11 CFR §106.5(g)(1)(i) from this account.

<sup>6</sup> Of this amount, \$75,000 was to establish the CD and \$750 was to pay a "prepaid finance charge" required by West One Bank as part of the loan agreement.

date of April 20, 1993 with an interest rate of 3.4%. Based on the CD being issued to the Idaho Republican Party and labeled "Federal Account", the Audit staff treated the CD as a federal account and determined that neither the interest earned nor the one transfer to the non-federal account to close this account had been disclosed in reported activity for 1993 (see Finding II.C.1.).

Campaign finance law in the state of Idaho allows committees to receive corporate and labor union contributions for the purpose of funding state election activity. An examination of the existing balance and of deposits made into the non-federal account during September and October 1992 revealed that the \$75,750 transferred from the non-federal account to secure the loan was composed primarily of prohibited funds. The major source of the prohibited funds appears to have been the National Republican Congressional Committee (NRCC). The Committee deposited a \$112,000 check from the NRCC on September 25, 1992 in its non-federal account. The check was made payable to the "Idaho State Central Committee, Non-Federal Account". Reports filed by the NRCC with the Commission disclose this disbursement as a memo entry originating from the NRCC's non-federal account. Since the transfer was made from the NRCC's non-federal account, it seemed likely that the funds were from federally impermissible sources. The Committee only deposited an additional \$5,946 in its non-federal account between this date and the date of the transfer to establish the CD.

In an April 6, 1994 letter from the Committee to the Commission's Reports Analysis Division, a Committee official wrote that it negotiated the loan so that "the federal account [could pay] its' share and the state accounts share of general administrative costs". The Committee's Post General and Year End disclosure reports for 1992 revealed that subsequent to the receipt of the loan, administrative expenses totaling approximately \$118,000 were incurred; about \$59,000 of which was the non-federal portion. The reports also indicate that, during that same time period, about \$95,000 was transferred from the non-federal account to the federal checking account for shared activity.<sup>7</sup> Therefore, it appeared that not only was the loan secured with non-federal funds and then used to pay shared expenses from the federal checking account, but that the non-federal account also continued to reimburse the federal checking account for its portion of shared expenses

Based on the Audit staff's review of this transaction, it appeared the non-federal account, in securing the loan for the Committee, made a prohibited contribution during the period the loan was outstanding. As a result of the transfer from the non-federal account used to establish the CD, the Committee converted non-federal funds into federal funds which is a prohibited contribution under 11 CFR 106.5(g)(2) and 102.5(a). Even if the Committee had established the CD as a non-federal account, its use of the CD as collateral for the loan is still a prohibited contribution pursuant to 11 CFR 100.7(a)(1) and 106.5(g)(2).

<sup>7</sup> A review of the Committee's disclosure reports for 1991 and 1992 did not indicate that the non-federal account overpaid its share of expenses for the election cycle.

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## 2. Prohibited Transfer from Non-Federal Account

The Committee repaid the loan on February 18, 1993 with money from its federal checking account. The amount repaid was \$76,318 (\$75,000 in principal and \$1,318 in interest). The Committee reported the loan principal repayment and \$627 of the interest paid on its Schedules B; the remaining interest paid (\$691) was not reported (see Finding II.C.1.).

Similarly, on February 18, 1993, the Committee redeemed the CD for \$75,521 (principal plus \$839 interest less \$318 early withdrawal fee) and deposited these funds into its non-federal account. This transfer of funds from the Committee's federal (CD) account to its non-federal account refunded the impermissible funds received on October 21, 1992 and described above in II.A.1..

Also on February 18, 1993, the non-federal account transferred \$75,521 to the federal savings account, which in turn transferred \$79,457 to the federal checking account. Without these transactions, the federal checking account would not have had the funds available to repay the loan. The Committee reported the \$75,521 transfer from the non-federal account to the federal savings account, but did not report the \$75,521 transfer from the federal (CD) account to the non-federal account (see Finding II.C.1.).

Although the \$75,521 transfer from the non-federal account to the federal savings account was reported, it was initially disclosed as a loan repayment. The Committee later amended its reports and asserted that the transfer represented a reimbursement for the non-federal share of administrative costs and was not reimbursement for the loan repayment.<sup>8</sup>

The Audit staff's review of shared expenses incurred during the period sixty days prior to, through ten days after February 18, 1993, revealed that the Committee was due about \$39,000 from the non-federal account.<sup>9</sup> Furthermore, it was determined that, in addition to the \$75,521 transfer on February 18, 1993, the Committee

<sup>8</sup> Based on this assertion and on reports filed by the Committee, the Commission's Reports Analysis Division requested the Committee transfer \$26,214 from its federal account to its non-federal account to refund the apparent overpayment for shared non-federal expenses. The Committee complied on July 13, 1994, but did not report the transfer (see Finding II.C.)

<sup>9</sup> A limited review of payments for shared activity during the two-year audit period concluded that the non-federal account had ultimately underpaid (by about \$140,000) the federal account for its portion of total shared expenses. Our analysis considered the \$26,214 overpayment noted at footnote 8; however, this analysis did not consider the impact of the 70 day window on such payments as required by 11 CFR §106.5(g)

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had also received four other reimbursements from the non-federal account totaling about \$19,000 within the same 70 day period. Finally, the Audit staff conducted a limited review of the Committee's shared activity, as reported on its disclosure reports for 1991 and 1992. It was determined that the non-federal account had underpaid its portion of shared activity by approximately \$3,000. Thus, the Committee could have transferred approximately \$23,000 (\$39,000 - \$19,000 + \$3,000) from its non-federal to its federal account for shared expenses.

However, in the Audit staff's opinion, the facts indicate that the \$75,521 transfer from the non-federal account to the federal checking account was related to the loan transaction and not to shared expenses. It is also the Audit staff's opinion that this transfer activity between the federal checking account and non-federal account has resulted in a prohibited contribution from the non-federal account of \$75,521.

In summary, as a result of the transactions noted above, the Committee received a prohibited contribution from its non-federal account when the CD was established. Further, these prohibited funds were then used to secure a loan. Although the prohibited funds were returned to the non-federal account when the CD was liquidated, another prohibited contribution resulted when the money was again transferred from the Committee's non-federal account to a federal checking account for other than shared expenses. In addition to the loan secured with prohibited funds that enabled the Committee to pay shared expenses from the federal checking account, the non-federal committee continued to reimburse the allocation account for its share of allocable expenses. As a result, the non-federal account paid for both the federal and non-federal share of allocable expenses.

The Audit staff advised the Committee's representative of these matters at an interim conference and at the exit conference. The Committee's representative stated that it would take the necessary steps to comply with the Audit staff's recommendation.

In the interim audit report, the Audit staff recommended that the Committee demonstrate why the loan guarantee and subsequent transfers should not be considered contributions from the non-federal account in violation of 11 CFR §§102.5 and 100.7. Absent such a demonstration, the Committee was asked to submit documentary evidence identifying each shared expense associated with the \$75,521 non-federal reimbursement to the allocation account.

In response to the interim audit report, a Committee official wrote: "The Idaho Republican Party loan guarantee and subsequent transfers were made as a result of lack of knowledge of FEC regulations with regard to the use of non-federal funds. The [Committee], in filing the 1993 FEC report, was not attempting to circumvent Federal law or FEC regulations. To avoid any future occurrence, [the Committee has] implemented training programs and improved office procedures to avoid future problems." The new office procedures were further outlined in the response.

Therefore, the Audit staff's opinion remains unchanged. The Committee's use of non-federal money to secure a loan, as well as the subsequent transfer of funds from the non-federal account used to repay the loan, resulted in prohibited contributions from the non-federal account.

#### **B. REPORTING OF DISBURSEMENTS**

Section 104.10(b) of Title 11 of the Code of Federal Regulations states, in relevant part, that a political committee that has established separate federal and non-federal accounts under 11 CFR 102.5(a)(1)(i) shall allocate between those accounts its administrative expenses and its costs for fundraising, exempt activities, and generic voter drives according to 11 CFR 106.5 and shall report those allocations. For the reporting of the allocation of direct fundraising costs, the committee shall assign a unique identifying title or code to each such program and state the allocation ratio calculated for the program or activity. The committee shall state the full name and address of each person to whom the disbursement was made, and the date, amount and purpose of each such disbursement.

Section 106.5(g)(3) of Title 11 of the Code of Federal Regulations provides that a political committee that transfers funds between accounts and pays allocable expenses according to this section shall report each such transfer and disbursement pursuant to 11 CFR 104.10(b).

During the audit period, the Committee paid shared expenditures from its federal checking account as required. Shared expenditures were itemized on Schedules H-4; however, the federal/non-federal shares disclosed for all expenditures were based on the ratio derived (on Schedule H-1) for administrative/generic voter drive costs (12.5% federal/87.5% non-federal).<sup>10</sup> Separate ratios were not developed for other categories of expenditures as required, such as fundraising expenditures or expenditures in direct support of candidates. Reimbursements from the non-federal account were made on an irregular basis, usually when the federal checking account balance was low. Workpapers were not available which detailed those shared expenditures associated with a particular reimbursement from the non-federal account. Finally, as discussed at Finding II.C., the Committee failed to disclose some of the reimbursements received from the non-federal account on Schedules H-3.

During our review of disbursements, the Audit staff noted disclosure problems on the Schedules H-4 filed by the Committee for shared expenditures. The

<sup>10</sup> In its 1994 April Quarterly report, the Committee allocated all of its shared expenses using a 20% federal/80% non-federal ratio. However, since the Audit staff's review of reimbursements from the non-federal account indicated the non-federal account had not reimbursed the Committee in excess of its permissible share, no corrective action is required.

Committee's disclosure of 151 disbursements totaling \$169,446 either contained inaccurate information or lacked the required information. Each area of concern is discussed below.

1. Disclosure of Shared Fundraising Expenditures

The Audit staff's review of Committee disbursements noted that 90 fundraising expenditures, totaling \$140,517, were not identified as such on Schedules H-4, nor were event codes disclosed associating each fundraising expenditure with a particular event or activity. Additionally, the Committee failed to file appropriate Schedules H-2 to disclose fundraising activities and ratios developed for each fundraising activity or event.

As noted, the federal/non-federal portions of Committee fundraising expenditures had been disclosed on Schedules H-4 utilizing the ratios derived for administrative/generic voter drive expenditures, rather than using ratios developed for each fundraising activity based on funds received, as required.

The Audit staff used contributor lists provided by the Committee, which detailed contributions deposited to the federal checking account and those deposited to the non-federal account for each fundraising event/activity, to calculate the appropriate ratios to be used for disclosing the federal/non-federal portion of each fundraising expenditure on Schedule H-4. For those fundraising events for which such contributor information was not available, the Audit staff calculated an average ratio based on the ratios developed for the other fundraising events. For 1993, the Audit staff determined the understatement in the disclosure of the federal share of fundraising expenditures to be about \$32,000; and, for 1994, the federal share of fundraising expenditures was understated by about \$68,000.

Based on our review of Committee fundraising activities and disbursement records, the Audit staff determined that the Committee understated the federal share of 90 fundraising expenditures by \$100,377.

The Committee's Executive Director was provided with workpapers detailing the ratios calculated by the Audit staff for each event, as well as the information required to be disclosed on Schedule H-2 for each fundraising activity or event.

2. Disclosure of Address for Payroll Expenditures

The Audit staff's review also noted that, for all payroll expenditures (61 items) reported on Schedules H-4 filed as part of its 1993 Year End (\$18,105) and 1994 April Quarterly (\$10,824) disclosure reports, the Committee failed to provide addresses as required.

The Audit staff advised the Committee's Executive Director of these matters at the exit conference. The Committee's representative noted that the necessary amended schedules would be filed.

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In the interim audit report, the Audit staff recommended that the Committee file amended Schedules H-4 (for Line 21a) to correctly disclose the fundraising expenditures noted above. It was also recommended that the Committee file Schedules H-2 to disclose each fundraising event and its allocation ratio; and to disclose complete addresses for payroll transactions discussed above.

In addition, the Audit staff recommended that the Committee detail in writing, changes it has implemented to comply with the requirements of 11 CFR §§102.5, 104.10 and 106.5.

In response to the interim audit report, the Committee filed amended Schedules H-2 and H-4 which materially corrected its disclosure reports. In addition, the Committee's Executive Director provided a detailed description of the procedures it has since implemented to ensure compliance with the requirements of the above cited regulations.

### C. MISSTATEMENT OF FINANCIAL ACTIVITY

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code state, in relevant part, that each report shall disclose the amount of cash on hand at the beginning of each reporting period, the total amount of all receipts, and the total amount of all disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of reported financial activity to bank activity for calendar years 1993 and 1994 revealed the following misstatements:

1. January 1, 1993 through December 31, 1993
  - a. Beginning Cash-on-Hand Balance

The Committee reported a beginning cash balance at January 1, 1993 of \$48,467. Utilizing the Committee's financial records, the Audit staff determined the correct beginning cash balance to be \$87,519. Therefore, the Committee's beginning cash balance was understated by \$39,052. The Committee did not maintain workpapers or other records which demonstrated how the reported amount for beginning cash on hand was obtained. Absent such information, the Audit staff was not able to determine the reason(s) for this misstatement.<sup>11</sup>

<sup>11</sup> As discussed in Finding II A, the Audit staff noted that the unreported \$75,000 transfer from the non-federal account to the CD account in 1992 possibly provided a partial explanation for the misstatement in beginning cash on hand.

reported total receipts of \$202,518. Therefore, the Committee's reported receipts were understated by \$46,091. The understated amount resulted from errors and omissions occurring primarily during the first six months of 1993 and was composed of the following:

interest not reported	\$ 866
transfer from non-federal account under-reported	\$ 1,380
contributions not reported	<u>\$43,845</u>
Total Understatement	\$46,091

c. Disbursements

The Committee reported total disbursements of \$270,335 for 1993. Utilizing the Committee's financial records, the Audit staff determined that the Committee should have reported total disbursements of \$347,793. Therefore, the Committee's reported disbursements were understated by a net amount of \$77,458.

CD transfer to non-federal account not reported (see Finding II.A.)	\$75,521
interest paid on loan not reported (see Finding II.A.)	\$ 691
federal (money market) account transfer to non-federal account not reported (see Finding II.A.)	\$ 845
CD withdrawal penalty not reported (see Finding II.A.)	\$ 318
miscellaneous reconciling adjustments	<u>\$ 83</u>
Total Understatement	\$77,458

d. Ending Cash-on-Hand Balance

On December 31, 1993, the Committee reported an ending cash-on-hand balance of \$14,709. The Audit staff determined the correct amount to be \$22,043. This disparity resulted in a \$7,334 net understatement in the Committee's



reported ending cash. The understatement was primarily the result of the misstatements described above and a \$350 mathematical error in the Committee's reported figures at December 31, 1993.

2. January 1, 1994 through December 31, 1994

a. Receipts

The Committee reported total receipts of \$452,495 for 1994. Utilizing the Committee's financial records, the Audit staff determined the Committee should have reported total receipts of \$713,426. Therefore, the Committee's receipts were understated by a net amount of \$260,931. This understatement resulted from the following:

transfers for shared expenses from the non-federal account not reported	\$ 231,959
interest not reported	\$ 815
contributions not reported	\$ 28,550
miscellaneous reconciling adjustment	\$ <u>(393)</u>
<b>Total (net) Understatement</b>	<b>\$ 260,931</b>

b. Disbursements

The Committee reported total disbursements of \$808,488 for 1994. Based on our review of the Committee's records, the Audit staff determined that the Committee should have reported total disbursements of \$738,613. Therefore, the Committee's reported disbursements were overstated by a net amount of \$69,875. This overstatement resulted from the following:

payroll disbursements not reported	\$ 61,459
transfer to non-federal account not reported	\$ 26,214
reported disbursements paid by the non-federal account	\$(161,126)
math error	\$ (8,677)
disbursements not reported	\$ 6,425

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miscellaneous reconciling adjustment	\$ 5,830
Total (net) Overstatement	\$ (69,875)

c. Ending Cash-on-Hand Balance

The Committee reported an ending cash on hand balance on December 31, 1994 of \$59,583. This amount however, when calculated using the Committee's reported beginning cash, reported receipts, and reported disbursements, proved to be mathematically incorrect. Based on those figures, ending cash on hand should have been reported at (\$341,241).<sup>12</sup> The correct ending cash balance as determined by the Audit staff based upon the Committee's financial records was (\$3,143). Based on reported ending cash on hand, this amount was overstated by \$62,726. This overstatement was primarily due to the reporting error and to the misstatements noted above.

At an interim conference and at the exit conference, the Audit staff explained the misstatements of financial activity for 1993 and 1994 to the Committee's Executive Director. Copies of the bank reconciliations were provided to the Committee. The Committee's Executive Director agreed to file the amended reports.

The Audit staff, in its interim audit report, recommended the Committee file amended reports for calendar years 1993 and 1994 to correct the misstatements of financial activity described above. It was further recommended that the Committee file amended Schedules H-4 for 1994 to disclose the reported non-federal disbursements as memo entries. Finally, the Audit staff recommended that the Committee file amended Schedules H-3 to disclose the unreported transfers from the non-federal account for shared expenses during 1994.

In response to the report, the Committee filed amended summary pages, Schedules H-4 and H-3, which materially corrected its disclosure reports.

**D. DISCLOSURE OF CONTRIBUTIONS RECEIVED FROM INDIVIDUALS**

Section 434(b)(3)(A) of Title 2 of the United States Code requires a political committee to report the identification of each person who makes a contribution to the reporting committee in an aggregate amount or value in excess of \$200 per calendar year, together with the date and amount of such contribution.

<sup>12</sup> Using the Committee's calendar year-to-date figures, the reported ending cash-on-hand amount of \$59,583 was calculated correctly. However, these calendar year-to-date amounts were not correct either. See footnote 2.

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Section 431(13)(A) of Title 2 of the United States Code defines the term "identification" to be, in the case of any individual, the name, the mailing address, and occupation of such individual, as well as the name of his or her employer.

Section 110.1(k)(1) of Title 11 of the Code of Federal Regulations states that any contribution made by more than one person shall include the signature of each contributor on the check, money order, or other negotiable instrument, or in a separate writing.

Sections 104.7(a) and (b) of Title 11 of the Code of Federal Regulations state, in part, that when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by the Act, any report of such committee shall be considered in compliance with the Act. The treasurer and the committee will only be deemed to have exercised best efforts if all of the following are present: all written solicitations for contributions include a clear request for the contributor's full name, mailing address, occupation and name of employer, and include the statement that such reporting is required by Federal law; the treasurer makes at least one effort after the receipt of the contribution, in either a written request or documented oral request, within thirty days of the receipt of the contribution, to obtain the information; and the treasurer reports all contributor information not provided by the contributor, but in the committee's possession, including information in contributor records, fundraising records and previously filed reports, in the same two year election cycle.<sup>13</sup>

1. Disclosure of Occupation/Name of Employer

The Audit staff reviewed contributions from individuals for disclosure of occupation and name of employer information on a 100% basis. During this review it was determined that approximately 90% of the errors occurred after the effective date of the change to 11 CFR §104.7. Therefore, this finding relates to the contributions received after that date. The review indicated that after March 31, 1994, of the 471 contributions requiring itemization, 31% lacked adequate disclosure of occupation and name of employer.

These errors were predominately due to the Committee disclosing "Info Requested" when the occupation and name of employer information for an individual was not available. However, the Committee was unable to produce evidence documenting that the information had been requested. A Committee official stated that Committee personnel would sometimes telephone contributors to obtain the information. However, no written record of such telephone calls had been maintained by the Committee.

<sup>13</sup> The effective date of this regulation was March 3, 1994

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At the exit conference, the Committee's Executive Director was advised of this matter and that it appeared the best efforts provisions had not been met. The Executive Director agreed to file amended Schedules A for the relevant periods disclosing the missing occupation and name of employer data; and, where the information could not be obtained, to maintain and submit records of all efforts to acquire it.

In the interim audit report, the Audit staff recommended the Committee produce documents to demonstrate best efforts had been satisfied; or absent such a demonstration, make an effort to contact those individuals whose contributions aggregate in excess of \$200 in 1994 and whose occupation and name of employer information is incomplete. The Committee was told that the contributors should be requested to provide the necessary information and should be informed that Federal law requires the Committee to report such information. The Committee was requested to maintain documentation or a written log of such contacts; and file amended Schedules A to disclose any occupation and/or name of employer information obtained from those contacts. Where the information was requested, but not received, the Committee was asked to submit evidence documenting its attempts to obtain the information.

The Committee complied with the Audit staff's recommendation by providing copies of letters it had sent to contributors requesting occupation and name of employer information. All of these letters were dated April 18, 1996. The Committee also provided a few copies of responses it had received prior to the April 18 letters. In a letter to the Audit Division, the Committee's Executive Director wrote: "The [Committee] will, in future reporting periods, enclose an amended memo Schedule A listing all the contributions for which additional information was received or filed."

## 2. Disclosure of Contributor Name

During the Audit staff's review of contributions from individuals, it was also determined that the Committee failed to disclose the correct contributor name for approximately 42% of contributions requiring such disclosure. This error was a result of the Committee's practice of attributing contributions received on joint accounts to either both account holders, or to the account holder who did not sign the check, as opposed to the actual signer. According to the Committee's representative, only one name per household was maintained in the Committee's records to avoid sending multiple fundraising appeals to the same address. The review indicated that this method of recording contributions did not result in the receipt of contributions in excess of the limitations.

At the exit conference the Committee's Executive Director was advised to change its system of recording and reporting contributions drawn on joint accounts so that contributions were correctly attributed to the individual(s) who made them. The Executive Director agreed to make the suggested changes to its system.

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The Audit staff, in its interim audit report, recommended that the Committee provide a detailed description of changes it had made to its system to properly record and disclose contributor information.

In response to the report, the Committee's Executive Director submitted a narrative describing the design and operation of its new system for recording and disclosing contributor information.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20463

July 12, 1996

**MEMORANDUM**

TO: Robert J. Costa  
Assistant Staff Director  
Audit Division

THROUGH: John C. Surina  
Staff Director

FROM: Lawrence M. Noble  
General Counsel

BY: Kim Bright-Coleman *KBC*  
Associate General Counsel

Lorenzo Holloway *-LH*  
Assistant General Counsel

Abel P. Montez *Am*  
Attorney

SUBJECT: Proposed Final Audit Report on the Idaho Republican Party Federal Campaign Account (LRA #499)

**I. INTRODUCTION**

The Office of General Counsel has reviewed the proposed Final Audit Report on the Idaho Republican Party Federal Campaign Account ("the Committee") submitted to this Office on May 2, 1996.<sup>1</sup> The following memorandum summarizes our comments on the proposed report. We concur with the findings in the proposed report which are not discussed separately in the following memorandum. If you have any questions concerning our comments, please contact Abel P. Montez, the attorney assigned to this audit.

<sup>1</sup> Because the proposed Final Audit Report does not include any matters exempt from public disclosure under 11 C.F.R. § 2.4, we recommend that the Commission's discussion of this document be conducted in open session.

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## II. LOAN SECURED BY FUNDS FROM PROHIBITED SOURCES AND PROHIBITED TRANSFER FROM NON-FEDERAL ACCOUNT TO FEDERAL ACCOUNT (II.A.1. and II.A.2.)

On September 24, 1992, the National Republican Congressional Committee's ("NRCC") non-federal account issued a \$112,000 check to the Committee, which it deposited into its non-federal account. On October 21, 1992, the Committee transferred funds from its non-federal account, which contained the NRCC funds, to establish a certificate of deposit ("CD") with West One Bank of Idaho ("West One Bank") in the amount of \$75,000. A review of the balance and deposits showed that the funds transferred from the Committee's non-federal account included funds derived from prohibited sources. West One Bank issued the CD to the "Idaho Republican Party - Federal Account," with a maturity date of April 20, 1993. Because the CD was issued to the "Idaho Republican Party - Federal Account," the Audit Division treated the CD as a federal account. On the same date, the Committee used the CD as collateral for a six-month \$75,000 loan from West One Bank. The promissory note for the loan stated that the note was secured by the CD "as described on collateral (sic) receipt and pledge agreement." The loan's repayment date was April 20, 1993 -- the same date as the CD's maturity date.

The Committee deposited the \$75,000 in loan proceeds into its federal savings account. The Committee periodically transferred funds from its federal savings account, containing the \$75,000 in loan proceeds<sup>2</sup> and additional funds totaling approximately \$20,000, into its federal checking account to pay for administrative expenses. The Committee's 1992 Post-General and Year-End disclosure reports revealed that before receiving the loan, the Committee's administrative expenses totaled \$118,000; the allocable amount for federal activity was \$59,000 and for non-federal activity was \$59,000. The Committee transferred funds from the non-federal account to the federal account to pay for the allocable federal and non-federal administrative expenses.

On February 18, 1993, the Committee redeemed the federal account CD for \$75,521.<sup>3</sup> The Committee deposited the funds from the CD into its non-federal account. On the same date, the Committee transferred \$75,521 from its non-federal account to its federal savings account. Then the Committee transferred \$79,457 from its federal savings account to its federal checking account.<sup>4</sup> Using funds from its federal checking

<sup>2</sup> In an April 6, 1994 letter from the Committee to the Commission's Report Analysis Division, a Committee official wrote that it negotiated the loan so that the "federal account [could pay] its share and the state account's share of general administrative costs."

<sup>3</sup> This amount includes \$75,000 [principal] + \$839 [interest] - \$318 [early withdrawal fee]

<sup>4</sup> The Committee reported the \$75,521 transfer from the non-federal account to the federal savings account, but did not report the \$75,521 transfer from the federal (CD) account to the non-federal account

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account, the Committee repaid the loan.<sup>5</sup> The Committee initially reported in its disclosure reports that the transfer of \$75,521 from its non-federal account to the federal savings account was for purposes of repaying the loan. Subsequently, the Committee amended its reports to assert that this transfer was for purposes of reimbursing its federal account for the non-federal share of administrative costs.

The Audit Division concludes that the non-federal account, in securing the loan for the Committee on October 21, 1992, made a prohibited contribution during the period the loan was outstanding. The Audit Division also concludes that the transactions on February 18, 1993 resulted in an additional prohibited contribution because the Committee transferred funds from its non-federal account to a federal checking account for expenses that were not allocable shared expenses under 11 C.F.R. § 106.5. The cover memorandum of the report directs the Office of General Counsel's attention to these findings. The Office of General Counsel has reviewed your analysis and concludes that two prohibited contributions resulted from the series of transactions.

A loan made by any person for the purpose of influencing any election for federal office is a contribution. 2 U.S.C. § 431(8)(A)(i); 11 C.F.R. § 100.7(a)(1). The term "loan" is defined to include a guarantee, endorsement, or any other form of security. 11 C.F.R. § 100.7(a)(1)(i). Idaho law allows candidates or political committees to receive corporate and labor union contributions for the purpose of funding state election activity. See IDAHO CODE §§ 67-6601 - 67-6628. (State act governing election campaign contributions and expenditures by lobbyists does not include a prohibition for corporate or labor union contributions or expenditures).

A party committee that finances political activity in connection with both federal and non-federal elections shall either establish separate federal and non-federal accounts or establish a political committee. 11 C.F.R. §§ 102.5(a)(1)(i) and (ii). Only funds subject to the prohibitions and limitations of the Federal Election Campaign Act shall be deposited in such separate federal account<sup>6</sup> 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(a). A committee shall make all disbursements, contributions, expenditures and transfers in connection with any federal election from its federal account. 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(i). A committee shall allocate all administrative expenses between the federal account and any other account maintained by such committee for the purpose of financing activity in connection with non-federal elections. 11 C.F.R. §§ 102.5(a)(1)(i),

<sup>5</sup> The amount repaid was \$76,318 (\$75,000 [principal] + \$1,318 [interest]). The Committee reported the loan principal repayment and \$627 of the interest paid on its Schedules B, the remaining interest paid (\$691) was not reported.

<sup>6</sup> Such account shall be treated as a separate federal political committee which shall comply with the requirements of the Act. 11 C.F.R. § 102.5(a)(1)(ii).

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106.5(a)(2)(i) and (g)(i).<sup>7</sup> A committee shall pay the entire amount of administrative expenses from its federal account and transfer funds from its non-federal account to its federal account solely to cover the non-federal share of the expenses. 11 C.F.R. § 106.5(g)(1)(i); see also Advisory Opinion ("AO") 1992-33 (reporting in-kind contributions for joint fundraiser).

The Office of General Counsel concurs with the Audit Division's finding that the securing of the loan to the federal account resulted in a contribution from the non-federal account to the federal account. Because the CD was used to provide collateral that enabled the Committee to secure a loan for its federal account, it appears that the use of the CD was a form of security or something of value that resulted in a contribution from the non-federal account to the federal account.<sup>8</sup> 2 U.S.C. § 431(8)(A)(i) and 11 C.F.R. § 100.7(a)(1); cf AO 1981-20 (where a state PAC provides funding to a federal PAC to meet the minimum requirements to purchase a treasury bill, the state PAC gives a thing of value to the federal PAC). The non-federal account is prohibited from making contributions to a federal account.<sup>9</sup> 11 C.F.R. § 102.5(a)(1)(i). The original source of the funds used to establish the CD was the NRCC's non-federal account and the Committee's non-federal account. Because Idaho law permits corporations and labor organizations to make contributions, IDAHO CODE §§ 67-6601 - 67-6628, the loan from West One Bank to the Committee's federal account may have been secured by funds from prohibited sources.<sup>10</sup> In fact, an examination of the Committee's non-federal account showed that it

<sup>7</sup> The purpose of these allocation rules is to assure that non-federal funds do not pay for the federal portion of a shared expense. Explanation and Justification of 11 C.F.R. Part 106, 55 Fed Reg 26058, 26066 (June 26, 1990)

<sup>8</sup> The Office of General Counsel agrees with the Audit Division's treatment of this CD as a federal account, given that the CD, which was non-transferable and non-negotiable, certified that the Idaho Republican Party Federal Account deposited the sum of \$75,000 into the CD account. It is possible that if the CD had been established in the name of the Committee's non-federal account, the bank may not have made the loan to the federal account or changed the conditions and terms of the loan, given that the loan would have been unsecured.

<sup>9</sup> An issue exists whether the transaction is a permissible transfer under 11 C.F.R. § 106.5(g)(1). A non-federal account may transfer funds to a federal account for the limited purpose of paying the non-federal portion of allocable expenses. 11 C.F.R. § 102.5(a)(1)(i) and 106.5(g)(1). However, the committee must itemize in its reports the allocable activities for which transferred funds are intended to pay. 11 C.F.R. § 106.5(g)(2)(i)(A). If the committee does not itemize the allocable activities, the funds transferred will be presumed to be a loan or contribution from the non-federal account to the federal account. 11 C.F.R. § 106.5(g)(2)(iii). However, in this case, the use of the CD to secure the loan for the federal committee may not be considered a permissible transfer from the non-federal account to the federal account because it does not appear to be an allocable non-federal activity and the Committee did not itemize it as such.

<sup>10</sup> The fact that the Committee converted the funds from the NRCC and its non-federal account to a CD does not change the fact the funds were from a prohibited source. The Committee merely converted the form of the asset when it established the CD with West One Bank.

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contained funds from prohibited sources. 2 U.S.C. § 441b(a). Furthermore, the funds used to secure the loan as a CD may have contained excessive contributions with respect to the federal account when aggregated with other contributions to the federal account. 2 U.S.C. § 441a.

This Office also concurs with the Audit Division examination and analysis of the Committee's transfer activity that occurred on February 18, 1993. The facts reveal that the transfer activity on that date was for purposes of repaying the loan and not, as the Committee has claimed, for the payment of allocable administrative expenses. The Audit Division's examination reveals that on that date the Committee redeemed the federal account CD for \$75,521. The Committee then deposited the funds from the CD into its non-federal account. On the same date, the Committee transferred \$75,521 from its non-federal account to its federal savings account. Then the Committee transferred \$79,457 from its federal savings account to its federal checking account. Using funds from its federal checking account, the Committee repaid the loan.

The transactions on February 18, 1993 resulted in an additional prohibited contribution. The Committee's non-federal account made a transfer to the federal savings account which was then transferred to the federal checking account. 11 C.F.R. § 102.5(a). Because the funds from this transfer were then used to pay off the loan and not to pay for allocable shared expenses, the transfer was a contribution from the non-federal account. See 11 C.F.R. § 106.5(g)(1).

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20546

July 26, 1996

Mr. Richard Jackson, Treasurer  
Idaho Republican Party  
Federal Campaign Account  
612 W. Hays  
Boise, ID 83701

Dear Mr. Jackson:

Attached please find the Final Audit Report on the Idaho Republican Party Federal Campaign Account. The Commission approved the report on July 25, 1996.

The Commission approved Final Audit Report will be placed on the public record on August 1, 1996. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 219-4155 or toll-free at (800) 424-9530. Any questions you have related to matters covered during the audit or in the report should be directed to Melinda Madsen or Alex Boniewicz of the Audit Division at (202) 219-3720 or at the above toll free number.

Sincerely,

Robert J. Costa  
Assistant Staff Director  
Audit Division

Attachment as stated

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**CHRONOLOGY**

**IDAHO REPUBLICAN PARTY  
FEDERAL CAMPAIGN ACCOUNT**

<b>Audit Fieldwork</b>	<b>9/18/95 - 9/29/95</b>
<b>Interim Audit Report to the Committee</b>	<b>1/18/96</b>
<b>Response Received to the Interim Audit Report</b>	<b>4/10/96</b>
<b>Final Audit Report Approved</b>	<b>7/25/96</b>

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