



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 10, 2005

**MEMORANDUM**

TO: ROBERT W. BIERSACK  
PRESS OFFICER  
PRESS OFFICE

FROM: JOSEPH F. STOLTZ *JFS*  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE AUDIT REPORT ON THE NORTH  
DAKOTA DEMOCRATIC-NONPARTISAN LEAGUE PARTY

Attached please find a copy of the audit report on the North Dakota Democratic-Nonpartisan League Party, which was approved by the Commission on March 2, 2005.

The report may be released to the public on March 10, 2005.

Attachment as stated

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



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

January 1, 2001 – December 31, 2002

## Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.<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 North Dakota Democratic-Nonpartisan League Party is a state party committee headquartered in Bismarck, ND. For more information, see the chart on the Committee Organization, p. 2.

## Financial Activity (p. 2)

### • Receipts

○ Transfers from Non-federal Accounts for Joint Activity	\$ 1,256,645
○ Transfers from Affiliated/Other Party Committees	579,480
○ Contributions from Individuals	442,569
○ Other Political Committees	179,935
○ All Other Receipts	47,959
○ <b>Total Receipts</b>	<b>\$ 2,506,588</b>

### • Disbursements

○ Operating Expenditures	\$ 2,218,664
○ Coordinated Expenditures	92,727
○ All Other Disbursements	176,752
○ <b>Total Disbursements</b>	<b>\$ 2,488,143</b>

## Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Non-federal Funding of Federal Activity (Finding 2)

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<sup>1</sup> 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 North Dakota Democratic-Nonpartisan League Party (NDP), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

### **Scope of Audit**

This audit examined:

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

### **Changes to the Law**

On March 27, 2002, President Bush signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA). The BCRA contains many substantial and technical changes to the federal campaign finance law. Most of the changes became effective November 6, 2002. Except for the period November 6, 2002, through December 31, 2002, the period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are primarily those that were in effect prior to November 6, 2002.

## Part II

### Overview of Committee Committee Organization

<b>Important Dates</b>	<b>North Dakota Democratic-Nonpartisan League Party</b>
• Date of Registration	August 29, 1972
• Audit Coverage	January 1, 2001 – December 31, 2002
<b>Headquarters</b>	Bismarck, ND
<b>Bank Information</b>	
• Bank Depositories	1
• Bank Accounts	6 federal and 2 non-federal accounts
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Ken Ziegler
• Treasurer During Period Covered by Audit	Ken Ziegler
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

### Overview of Financial Activity (Audited Amounts)

<b>Cash on hand @ January 1, 2001</b>	<b>\$ 17,647</b>
○ Transfers from Non-federal Accounts for Joint Activity	1,256,645
○ Transfers from Affiliated/Other Party Committees	579,480
○ Contributions from Individuals	442,569
○ Other Political Committees	179,935
○ All Other Receipts	47,959
<b>Total Receipts</b>	<b>\$ 2,506,588</b>
○ Operating Expenditures	2,218,664
○ Coordinated Expenditures	92,727
○ All Other Disbursements	176,752
<b>Total Disbursements</b>	<b>\$ 2,488,143</b>
<b>Cash on hand @ December 31, 2002</b>	<b>\$ 36,092</b>

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Misstatement of Financial Activity**

A comparison of NDP's reported figures to its bank records revealed that receipts, disbursements and the ending cash balance had been misstated for calendar year 2002. The Audit staff recommended that NDP amend its disclosure reports to correct the misstatements. In response to the interim audit report, NDP filed amended disclosure reports. Although the amendments corrected some of the errors noted, the amendments did not materially correct the misstatements.

(For more detail, see p. 4)

##### **Finding 2. Non-federal Funding of Federal Activity**

The Audit staff's review of disbursements from the federal and non-federal accounts indicated that the non-federal account potentially over funded its share of allocable activity by \$331,246. Media expenditures made up a significant portion of this over funding. Documentation such as invoices, scripts or copies of advertisements were not made available or did not demonstrate that these media expenditures were for shared expenses. In addition, NDP made disbursements from its non-federal accounts that appeared to be for allocable expenses. The Audit staff recommended that NDP either demonstrate that there had been no over funding by the non-federal account or reimburse the non-federal account \$331,246 and correct its disclosure of the expenditures. In response to the interim audit report, NDP provided documentation which demonstrated that some of the media expenditures were shared expenses and that some of the disbursements from its non-federal account were not for allocable expenses. As a result, NDP demonstrated that there had been no over funding by the non-federal accounts. Absent documentation for the remaining expenditures, NDP filed amended Schedules H4; however, those amendments did not materially correct the disclosure of those disbursements.

(For more detail, see p. 6)

## Part IV

# Findings and Recommendations

### Finding 1. Misstatement of Financial Activity

#### Summary

A comparison of NDP's reported figures to its bank records revealed that receipts, disbursements and the ending cash balance had been misstated for calendar year 2002. The Audit staff recommended that NDP amend its disclosure reports to correct the misstatements. In response to the interim audit report, NDP filed amended disclosure reports. Although the amendments corrected some of the errors noted, the amendments did not materially correct the misstatements.

#### Legal Standard

**Contents of Reports.** Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
  - The total amount of receipts for the reporting period and for the calendar year;
  - The total amount of disbursements for the reporting period and for the calendar year; and,
  - Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements).
- 2 U.S.C. §434(b)(1), (2) and (4).

#### Facts and Analysis

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

2002 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2002	\$7,866	\$7,598	\$268 Overstated
Receipts	\$2,004,451	\$2,173,428	\$168,977 Understated
Disbursements	\$1,937,997	\$2,144,934	\$206,937 Understated
Ending Cash Balance @ December 31, 2002	\$74,320	\$36,092	\$38,228 Overstated

The \$268 overstatement of the beginning cash balance on January 1, 2002 was considered immaterial.

## Explanation of Discrepancies

### Receipts – 2002

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

● Transfers from affiliated/other party committee not reported or reported incorrectly	+ \$126,153
● Unidentified receipt from a party committee not reported. No documentation was available except for a credit entry on bank statement. NDP asserted this was a contribution from a party committee.	+ 29,783
● Transfers of funds from non-federal accounts not reported or reported incorrectly	+ 16,322
● Contribution from an individual not reported	+ 2,500
● Unexplained differences	– 5,781
<b>Net Understatement of Receipts</b>	<u>\$168,977</u>

### Disbursements – 2002

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

● Operating expenses not reported. Most of these errors involved sequentially numbered checks which should have been reported in NDP's Year-End report. In addition, most were not found in the database provided by the NDP.	+ \$108,798
● Transfers to non-federal account not reported. One transfer (\$103,950) involved incorrectly deposited receipts and neither transaction was reported.	+ 112,250
● Reported operating expense not supported by a check/debit	– 27,195
● Contribution to Mondale for Senate not reported	+ 5,000
● Refund of contribution from Democratic Congressional Campaign Committee not reported.	+ 2,802
● Unexplained differences	+ 5,282
<b>Net Understatement of Disbursements</b>	<u>\$206,937</u>

### Ending Cash Balance

The \$38,228 overstatement of the ending cash balance on December 31, 2002, was the net result of the misstatements detailed above.

At the exit conference, the Audit staff explained the misstatements and provided NDP's representatives with schedules detailing the discrepancies. The representatives were unaware of the misstatements but agreed to review the spreadsheets provided and to file amended disclosure reports.



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

The Audit staff recommended that NDP amend its reports to correct the misstatements noted above, to include amended Schedules A and B as appropriate, and to amend all subsequent reports in order to correct reported cash balances. In response to the interim audit report, NDP filed amended reports. Although the amendments corrected some of the errors noted above, the amendments did not materially correct the misstatements. With respect to receipts, the remaining misstatement was primarily due to one transfer (\$103,950) from an affiliated/other party committee and several transfers of funds from non-federal accounts not reported or reported incorrectly. With respect to disbursements, the remaining misstatement was primarily due to one transfer (\$103,950) to the non-federal account not reported.

## **Finding 2. Non-federal Funding of Federal Activity**

### **Summary**

The Audit staff's review of disbursements from the federal and non-federal accounts indicated that the non-federal account potentially over funded its share of allocable activity by \$331,246. Media expenditures made up a significant portion of this over funding. Documentation such as invoices, scripts or copies of advertisements were not made available or did not demonstrate that these media expenditures were for shared expenses. In addition, NDP made disbursements from its non-federal accounts that appeared to be for allocable expenses. The Audit staff recommended that NDP either demonstrate that there had been no over funding by the non-federal account or reimburse the non-federal account \$331,246 and correct its disclosure of the expenditures. In response to the interim audit report, NDP provided documentation which demonstrated that some of the media expenditures were shared expenses and that some of the disbursements from its non-federal account were not for allocable expenses. As a result, NDP demonstrated that there had been no over funding by the non-federal accounts. Absent documentation for the remaining expenditures, NDP filed amended Schedules H4; however, those amendments did not materially correct the disclosure of those disbursements.

### **Legal Standard**

**A. Accounts for Federal and Non-federal Activity.** A party committee that finances political activity in connection with both federal and non-federal elections must establish two accounts (federal and non-federal) and allocate shared expenses--those that simultaneously support federal and non-federal election activity—between the two accounts. Alternatively, the committee may conduct both federal and non-federal activity from one bank account, considered a federal account. 11 CFR §102.5(a)(1)(i).

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

- They may pay the entire amount of the shared expense from the federal account and transfer funds from the non-federal account to the federal account to cover the non-federal share of that expense; or

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

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

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

**E. Disclosing Refunds of Allocable Expenses.** Advisory Opinion 1995-22 describes two methods of reporting refunds. Method 1 discloses the refund and the federal and non-federal shares as negative entries on the Schedules H4. Method 2 discloses the receipt of the refund as an offset to operating expenditures on the Schedules A and the federal account transfer to the non-federal account for the non-federal share is disclosed on Schedules H4.

### **Facts and Analysis**

NDP maintained several federal and non-federal bank accounts. It paid shared expenses from the federal accounts and transferred funds from the non-federal accounts to the federal accounts to cover the non-federal share of those expenses. NDP utilized a ballot composition ratio of 16.67% federal and 83.33% non-federal which was verified by the Audit staff to be correct. The Audit staff reviewed disbursements from both the federal and non-federal accounts and found that the non-federal had potentially over funded its share of allocable expenses by \$331,246.

The Non-federal Funding Analysis (the Analysis) below presents transfers made from the non-federal accounts for allocable expenses, the non-federal portion of allocable expenditures reported by NDP, and adjustments based on the reviews of expenditures from the federal and non-federal accounts. Succeeding paragraphs address the adjustments presented in the Analysis.

<b>Non-federal Funding Analysis</b>		
<b>Description</b>	<b>Finding Index</b>	
Transfers from Non-federal Accounts		\$ 1,256,645
Less: Non-federal Portion of Allocable Expenditures		(1,765,749)

<b>Net (Under funding)/Over funding by the Non-federal Accounts:</b>		<b>\$ (509,104)</b>
<b>Adjustments:</b>		
Non-federal Portion of Media Expenditures	Finding 2.A.	\$ 782,110
Federal Share of Allocable Expenses Made from Non-federal Account	Finding 2.B.	\$ 68,420
Non-federal Share of Refunds & Rebates of Allocable Expenses Deposited in Federal Account	Finding 2.C.	\$ (10,180)
<b>Adjusted Amount of Potential Non-federal OVER Funding of Allocable Expenses</b>		<b>\$ 331,246</b>

A. Federal Share of Media Expenditures Disclosed as Non-federal

The Audit staff's review of disbursements identified 27 payments totaling \$938,570 to media vendors for print advertisements, placement of television/radio spots and other media expenses. These disbursements were made from the federal account and were disclosed on Schedules H4 as shared expenditures. The Audit staff made repeated verbal and written requests to NDP for invoices, copies of the ads, printed material and scripts. However, the limited documentation provided did not allow the Audit staff to determine the nature of these disbursements. Absent documentation to the contrary, the Audit staff considered these payments to be 100% federal expenditures. An adjustment was made to the Analysis for the non-federal portion of these allocable expenditures (\$782,110 or 83.33% of \$938,570).

B. Federal Share of Allocable Expenses Made from Non-federal Account

The review of all payments from NDP's non-federal accounts identified disbursements totaling \$410,440, which appeared to be allocable expenses such as compensation, staff expense, media, and other miscellaneous expenses. NDP provided limited or no external documentation supporting these expenditures. Available documentation did not indicate that any of these payments were for solely non-federal activities; therefore, they were treated as allocable expenses in the Analysis. An adjustment was made to the Analysis for the federal portion of the allocable expenditures (\$68,420 or 16.67% of \$410,440). These expenditures required (memo) disclosure on Schedules H4.

C. Non-federal Share of Refunds and Rebates of Allocable Expenses Deposited in the Federal Account

The Audit staff reviewed refunds/rebates received by NDP and deposited in the federal account. Refunds of payments for shared expenses were required to be

allocated between the federal and non-federal accounts according to the same ratio used to allocate the original disbursements. The federal account must transfer the non-federal portion to the non-federal account and disclose the transfer on Schedules H4. NDP did not transfer \$10,180 (83.33% of \$12,757) to the non-federal account as required. An adjustment was made to the Analysis to reflect this.

At the exit conference, the Audit staff provided workpapers detailing the adjustments noted above to the NDP representatives. The representatives indicated that they would demonstrate that NDP's non-federal account under funded allocable activity rather than over funding it by providing evidence that the media disbursements were shared expenditures and that the disbursements paid from the non-federal account(s) were not allocable expenses.

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

The Audit staff recommended that NDP:

- Provide documentation detailing the nature and purpose of the disbursements made to media vendors to include but not be limited to contracts, statements of account, invoices, copies of media ads and scripts. Absent documentation demonstrating these were shared expenses, NDP should have amended its reports to correctly disclose these disbursements.
- Demonstrate that the identified disbursements paid from non-federal accounts were not allocable expenses. Absent such a demonstration, NDP should have filed Schedules H4 (Joint Federal/Non-federal Activity Schedule) disclosing as memo entries the allocable expenditures paid from the non-federal accounts.
- Demonstrate that the refunds/rebates were not for allocable expenditures. Absent such documentation, the federal account was to transfer the non-federal portion to the non-federal account and disclose the transfer on Schedules H4.
- Absent a demonstration there had been no over funding by the non-federal account, NDP's federal account should have reimbursed the NDP non-federal account(s) for the amount of any over funding and provided evidence of such reimbursement. If NDP lacked the funds to reimburse the non-federal account(s), the amounts owed should have been disclosed on Schedule D (Debts and Obligations) as a debt, until such time that funds were available to make the reimbursement.
- The Audit staff further recommended that NDP provide a written description of system changes it implemented to ensure all allocable disbursements were paid from a federal account.

In response to the interim audit report, NDP provided documentation detailing the nature and purpose of some disbursements made to media vendors. This documentation demonstrated that those expenditures were shared expenses. In addition, NDP demonstrated that some of the disbursements paid from non-federal accounts were not

allocable expenses. As a result of the documentation provided, NDP demonstrated there had been no over funding by the non-federal account. A revised Non-federal Funding Analysis is presented below.

<b>Revised Non-federal Funding Analysis</b>		
<b>Description</b>	<b>Finding Index</b>	
Transfers from Non-federal Accounts		\$ 1,256,645
Less: Non-federal Portion of Allocable Expenditures		(1,765,749)
<b>Net (Under funding)/Over funding by the Non-federal Accounts:</b>		<b>\$ (509,104)</b>
<b>Adjustments:</b>		
Non-federal Portion of Media Expenditures	Finding 2.A.	\$ 236,723
Federal Share of Allocable Expenses Made from Non-federal Account	Finding 2.B.	\$ 51,694
Non-federal Share of Refunds & Rebates of Allocable Expenses Deposited in Federal Account	Finding 2.C.	\$ (10,180)
Adjusted Amount of Potential Non-federal UNDER Funding of Allocable Expenses		\$ (230,867)

NDP also provided a written description of system changes it had implemented to ensure all allocable disbursements were paid from the federal account. NDP filed amended Schedules H4 to disclose those disbursements made from the non-federal accounts. For those media expenditures where documentation was provided demonstrating the expenses were shared, disclosure did not need to be corrected. However, for the remaining expenditures totaling \$284,079, the non-federal portion of which is \$236,723 as noted above, disclosure has not been adequately corrected. For \$189,966 of these disbursements, documentation has not been provided demonstrating these should be shared expenditures, nor was the disclosure of these items changed. The remaining \$94,113 appear to be independent expenditures not disclosed on Schedule E.