



Interim Report of the Audit Division on Tennessee Democratic Party January 1, 2005 – December 31, 2006

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

Tennessee Democratic Party is a state party committee headquartered in Nashville, TN. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

- **Federal Receipts**
 - Contributions from Individuals \$ 1,771,653
 - Contributions from Other Political Committees 234,775
 - Transfers from Affiliated Party Committees 3,022,463
 - Transfers from Non-federal and Levin Funds 797,430
 - Other Receipts 48,176
 - **Total Federal Receipts** \$ 5,874,497
- **Federal Disbursements**
 - Operating Disbursements \$1,691,580
 - Transfers to Affiliated Committees 211,950
 - Independent Expenditures 912,496
 - Coordinated Party Expenditures 712,459
 - Federal Election Activity 2,237,958
 - Other Disbursements 160,981
 - **Total Federal Disbursements** \$5,927,424
- **Levin Receipts** \$319,869
- **Levin Disbursements** \$319,869

Findings and Recommendations (p. 3)

- Non-allocable Federal Election Activity Disclosed on Schedule H6 (Finding 1)
- Disclosure of Disbursements (Finding 2)

¹ 2 U.S.C. §438(b).

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Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Part II. Overview of Committee	
Committee Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Findings and Recommendations	3
Part IV. Findings and Recommendations	
Finding 1. Non-allocable Federal Election Activity Disclosed on Schedule H6	4
Finding 2. Disclosure of Disbursements	8

Part I

Background

Authority for Audit

This report is based on an audit of Tennessee Democratic Party (TDP), 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 disclosure of expenses allocated between federal, non-federal, and Levin accounts.
6. The consistency between reported figures and bank records.
7. The completeness of records.
8. Other committee operations necessary to the review.

Part II

Overview of Committee Committee Organization

Important Dates	Tennessee Democratic Party
• Date of Registration	May 18, 1983
• Audit Coverage	January 1, 2005 - December 31, 2006
Headquarters	Nashville, Tennessee
Bank Information	
• Bank Depositories	2
• Bank Accounts	7 federal, 3 non-federal, 1 Levin
Treasurer	
• Treasurer When Audit Was Conducted	Chip Forrester
• Treasurer During Period Covered by Audit	Robert Tuke & Delainia Davis
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Federal Cash on hand @ January 1, 2005	\$128,779
○ Contributions from Individuals	\$1,771,653
○ Contributions from Other Political Committees	234,775
○ Transfers from Affiliated Party Committees	3,022,463
○ Transfers from Non-federal and Levin Funds	797,430
○ Other Receipts	48,176
Total Federal Receipts	\$6,003,276
○ Operating Disbursements	\$1,691,580
○ Transfers to Affiliated Committees	211,950
○ Independent Expenditures	912,496
○ Coordinated Party Expenditures	712,459
○ Federal Election Activity	2,237,958
○ Other Federal Disbursements	160,981
Total Federal Disbursements	\$5,927,424
Federal Cash on hand @ December 31, 2006	\$75,852
Levin Cash on hand @ September 26, 2006	\$0
Total Levin Receipts	\$319,869
Total Levin Disbursements	\$319,869
Levin Cash on hand @ December 31, 2006	\$0

Part III

Summaries

Findings and Recommendations

Finding 1. Non-allocable Federal Election Activity Disclosed on Schedule H6

A review of disbursements revealed that non-allocable federal election activity was paid with Levin funds and reported on Schedule H6 (Disbursements of Federal and Levin Funds for Allocated Federal Election Activity). Payments, totaling \$98,321, for polls, automated phone banks, and campaign rallies were allocated as 21% federal and 79% Levin. As a result, the Levin fund paid \$77,674. However, a clearly identified candidate running for federal office was addressed in each of the above activities/programs. The Audit staff recommends that TDP demonstrate that each payment represents allocable federal election activity. (For more detail, see p. 4)

Finding 2. Disclosure of Disbursements

A sample review of itemized expenditures revealed that for approximately 18% of the items tested TDP did not disclose the payees' addresses. The Audit staff recommends that TDP file amended reports to disclose the missing information. (For more detail, see p. 8)

Part IV

Findings and Recommendations

Finding 1. Non-allocable Federal Election Activity Disclosed on Schedule H6

Summary

A review of disbursements revealed that non-allocable federal election activity was paid with Levin funds and reported on Schedule H6 (Disbursements of Federal and Levin Funds for Allocated Federal Election Activity). Payments, totaling \$98,321, for polls, automated phone banks, and campaign rallies were allocated as 21% federal and 79% Levin. As a result, the Levin fund paid \$77,674. However, a clearly identified candidate running for federal office was addressed in each of the above activities/programs. The Audit staff recommends that TDP demonstrate that each payment represents allocable federal election activity.

Legal Standard

- A. Reporting Allocable Expenses between Federal Funds and Levin Funds.** A State, district, or local political party committee that makes a disbursement for Federal election activity that is allocated between Federal funds and Levin funds must state the category of Federal election activity for which each allocable disbursement was made. 11 CFR §300.36(b)(2)(i)(B).
- B. Categories of Allocable Federal Election Activity.** A State, district, or local political party committee may allocate disbursements between Federal funds and Levin funds for:
- Voter Registration Activity;
 - Voter Identification;
 - Get-Out-The-Vote Activity; and
 - Generic Campaign Activity. 11 CFR §300.33(a)(1) and (2).
- C. Categories of Non-Allocable Federal Election Activity.** The following costs incurred by State, district, and local party committees and organizations must be paid for only with federal funds:
- A public communication that refers to a clearly identified candidate for federal office and that promotes, attacks, supports or opposes any candidate for federal office. (11 CFR §300.33(c)).
- D. Coordinated Party Expenditures.** National party committees and state party committees are permitted to purchase goods and services on behalf of candidates in the general election—over and above the contributions that are subject to contribution limits described above. Such purchases are referred to as “coordinated party expenditures.” They are subject to the following rules:

- The amount spent on “coordinated party expenditures” is limited by statutory formulas that are based on the Cost of Living Adjustment (COLA) and the voting age population.
- Party committees are permitted to coordinate the spending with the candidate committees.
- The parties may make these expenditures only in connection with the general election.
- The party committees—not the candidates—are responsible for reporting these expenditures.
- If the party committee exceeds the limits on coordinated party expenditures, the excess amount is considered an in-kind contribution, subject to the contribution limits described above.
- A national or state party committee may assign all or part of its coordinated party spending authority to another party committee. 2 U.S.C. §441a(d) and 11 CFR §§109.32(b) and 109.33(a).

E. Assignment of Coordinated Party Expenditure Limit. A political party may assign its authority to make coordinated party expenditures authorized by 11 CFR §109.32 to another political party committee. Such an assignment must be made in writing, must state the amount of the authority assigned, and must be received by the assigned committee before any coordinated party expenditures is made pursuant to assignment. 11 CFR §109.33(a)

Facts and Analysis

During our review, the Audit staff identified payments, totaling \$98,321, for polls, automated phone banks, and campaign rallies. TDP considered these expenditures to be allocable federal election activity and allocated each payment as 21% federal and 79% Levin. As a result, the Levin fund paid \$77,673

The poll questions and the automated phone bank scripts both refer to a clearly identified candidate for federal office. Invoices for expenses associated with campaign rallies were billed to the federal candidate’s campaign but paid by TDP. It is the opinion of the Audit staff that these types of expenditures do not qualify as allocable federal election activity and should have been paid entirely by the federal account; some of which appear to represent coordinated party expenditures.

Polls – TDP paid \$24,500 for two statewide tracking polls conducted during the period October 14, 2006 through October 28, 2006. Poll questions related to a candidate running for election to the United States Senate and a candidate for Governor of Tennessee. The majority of the questions related to the senate election. The cost of the polls can not be allocated between the federal account and Levin fund since both polls refer to a clearly identified candidate running for federal office. As such, the cost should have been paid entirely by the federal account. The federal account should reimburse the Levin fund \$19,355 (\$24,500 x 79%).

Automated Phone Banks – TDP paid \$36,400 for two automated phone bank programs. The phone scripts for both programs refer to a clearly identified candidate running for federal office. As such, this cost can not be considered allocable federal election activity and paid for with Levin funds. The federal account should reimburse the Levin fund \$28,756 ($\$36,400 \times 79\%$).

Further, the cost of this program (\$36,400) appears to represent coordinated party expenditures on behalf of Harold Ford, Jr., candidate for the United States Senate. The first phone script was narrated by the Governor of Tennessee (Governor Script), who was running for re-election. He asked for “your support and vote.” He also asked that “you support Harold Ford, Jr.,” and continued to speak on his behalf. He closes by stating, “vote for me, Harold Ford, Jr., and the remaining democratic candidates running for election.” The script concluded with a second speaker stating paid for by the Tennessee Democratic Party; approved and authorized by Harold Ford, Jr. for Tennessee.

The second phone bank script was narrated by former president Bill Clinton (Clinton Script). He asked that “everyone go to the polls and take someone with you who hasn’t voted.” He also stated that “Tennessee has an historic chance to send Harold Ford, Jr. to the United States Senate,” and continued talking on his behalf. He ended by telling “everyone to go to the polls and vote.” The script concluded with a second speaker stating paid for by the Tennessee Democratic Party; approved and authorized by Harold Ford, Jr. for Tennessee.

It appears that the automated phone program was coordinated with Harold Ford, Jr. since the caller stated that the candidate approved and authorized each phone script. Further, the contracts for each phone bank program were signed by Jim Hester, representing TDP. And, his email addresses at both TDP and at the candidate’s campaign headquarters were listed on one of the contracts. Finally, prior to the date of each contract, Mr. Hester was employed by the candidate’s campaign.

The Audit staff has allocated the cost of the Governor Script one-third (Governor), one-third (Harold Ford, Jr.), and one-third to all other (unnamed) candidates running for election. Therefore, \$6,300 ($\$18,900 \times 33\%$) represented a coordinated expenditure on behalf of Harold Ford, Jr. Further, since Harold Ford, Jr. is the only candidate named in the Clinton Script, the entire cost (\$17,500) represents a coordinated expenditure on behalf of Harold Ford, Jr.

Campaign Rallies - The Audit staff identified payments, associated with 12 invoices, totaling \$37,421, which were dated in October 2006 and addressed to Harold Ford’s campaign. The invoices denoted, “Bill to Harold Ford Jr.” or “Prepared for Harold Ford for Senate Campaign” or “Sold to Harold Ford Jr. Campaign.” Each disbursement was reported as generic get-out-the-vote activity and disclosed on Schedule H6 as allocable federal election activity.

These payments do not appear to represent the cost of generic get-out-the-vote activities since the rallies appear to benefit Harold Ford, Jr. Therefore, the cost of this activity

should have been paid entirely by the federal account. As such, the federal account should reimburse the Levin fund \$29,563 (\$37,421 x 79%).

Further, the Audit staff believes these disbursements represent coordinated party expenditures on behalf of Harold Ford, Jr. As previously stated, the invoices contained notation as either billod to, prepared for, or sold to the Harold Ford Campaign. The invoices represented expenditures for Harold Ford campaign rallies, such as, tents, staging, refreshments, audio, packing and clean-up. One invoice was for custom labeled bottled water – label name “Ford for Tennessee Bottled Water.” Another invoice described the event name as a “Political Rally for Harold Ford, Jr.”

Coordinated Party Expenditure Limit – TDP’s coordinated expenditure limit for a United State Senate candidate from the state of Tennessee was \$362,200. The national party commlttee has the same limit; which was assigned to TDP. Therefore, TDP could make coordinated expenditures of behalf of Harold Ford, Jr. in the amount of \$724,400.

TDP reported on Schedule F (Itemized Coordinated Party Expenditures Made by Political Party Committees or Designated Agent(s) on Behalf of Candidates for Federal Office) coordinated party expenditures on behalf of Harold Ford, Jr. totaling \$712,459. With the addition of the cost for the automated phone bank (\$23,800 [\$6,300 + \$17,500]) and campaign rallies (\$37,421), it appears that TDP exceeded the limitation by \$49,280 (\$773,680 - \$724,400). The normal remedy would be for the Ford campaign to reimburse TDP \$49,280. However, since the Ford campaign transferred \$154,000 in excess campaign funds to TDP on November 6, 2006, the Audit staff considers this matter to be timely resolved; requiring no forthor action.

This matter was discussed at the exit conference. TDP representatives received copies of the documentation in order to further review these issues.

In response to the exit conference, the former director of Tennessee Victory 2006 submitted a signed statement that addressed four campaign rally invoices, totaling \$17,401. With respect to each, he stated Tennessee Victory 2006 expenditures were incorrectly invoiced to the Harold Ford Jr. campaign; the expenditures were related to generic get-out-the-vote activities; activities were not planned or conducted in coordination with any federal candidates; and, no federal candidates attended these events. The response did not address the polls or automated phone banks.

Two of the invoices addressed in the response, Jackson Centre (\$1,522) and Royal Reed Catering (Jackson Centre Menu - \$8,120) contain references to Harold Ford, Jr. The Jackson Centre invoice refers to the event name as “Political Rally for Harold Ford, Jr.” The Royal Reed Catering invoice “order info” section appears to have had Harold Ford, Jr.’s name on the first line but that information has been redacted.

Interim Audit Report Recommendation

The Audit staff recommends that, within 30 calendar days of service of this report, TDP demonstrate that expenditures:

- For polls, automated phone banks, and campaign rallies represent allocable federal election activity; or

Absent such evidence, the federal account should reimburse the Levin Fund \$77,674 (polls \$19,355, automated phone banks \$28,756, campaign rallies \$29,563) and file amended reports disclosing the expenditures on Schedule B or Schedule F as appropriate (see below).

- For automated phone banks and campaign rallies do not represent coordinated party expenditures on behalf of Harold Ford, Jr.; or

Absent such evidence, TDP should file amended reports disclosing expenditures for the automated phone banks \$23,800 (\$6,300 + \$17,500) and campaign rallies (\$37,421) as coordinated party expenditures on Schedule F.

Finding 2. Disclosure of Disbursements

Summary

A sample review of itemized expenditures revealed that for approximately 18% of the items tested TDP did not disclose the payees' addresses. The Audit staff recommends that TDP file amended reports to disclose the missing information.

Legal Standard

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). 2 U.S.C. §434(b)(5)(A) and 11 CFR §104.3(b)(3)(i).

Facts and Analysis

A sample review of itemized expenditures revealed that for 18% of the items tested, TDP did not disclose the payees' addresses. The majority of the disbursements lacking addresses related to canvassers whose mailing address was noted in TDP's records. This issue was discussed during the exit conference. TDP representatives had no significant comments.

Interim Audit Report Recommendation

The Audit staff recommends, within 30 days of service of this report, TDP file amended reports to disclose the missing information.