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AGENDA ITEM

MEMORANDUM

To: The Commission

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Thomas E. Hintermister *TH*
Assistant Staff Director
Audit Division

Doug Kodish *DK*
Audit Manager

By: Nicole Burgess *NB*
Lead Auditor

For Meeting of 3-6-14

Subject: Proposed Final Audit Report on the Vermont Democratic Party (A11-12)

Attached for your approval is the subject report. The report has been written in accordance with Directive 70. Documents related to this audit report can be viewed in the Voting Ballot Matters folder.

This report is being circulated on a 72 hour no objection basis. Should an objection be received, it is recommended that the report be considered at the next regularly scheduled open session. If you have any questions, please contact Nicole Burgess or Doug Kodish at 694-1200.

Attachment:
Proposed Final Audit Report on the Vermont Democratic Party



Proposed Final Audit Report on the Vermont Democratic Party (January 1, 2009 - December 31, 2010)

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 matter discussed in this report.

About the Committee (p. 2)

The Vermont Democratic Party² is a state party committee headquartered in Montpelier, Vermont. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

• Receipts	
• Contributions from Individuals	\$ 544,077
• Transfers from Affiliated Committees	332,494
• Transfers from Other Political Committees	219,000
• All Other Receipts	89,791
• Total Receipts	\$ 1,185,362
• Disbursements	
• Operating Expenditures	\$ 762,858
• Federal Election Activity	238,300
• All Other Disbursements	175,576
Total Disbursements	\$ 1,176,734

Commission Finding (p. 3)

- Recordkeeping for Employees

¹ 2 U.S.C. §438(b).

² The Vermont Democratic Party changed its name to the Vermont State Democratic Federal Campaign Committee.

Proposed Final Audit Report on the Vermont Democratic Party

(January 1, 2009 - December 31, 2010)



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Part I

Background

Authority for Audit

This report is based on an audit of the Vermont Democratic Party (VDP), 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 whether the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the disclosure of individual contributors' occupation and name of employer;
2. the disclosure of disbursements, debts and obligations;
3. the disclosure of expenses allocated between federal and non-federal accounts;
4. the consistency between reported figures and bank records;
5. the disclosure of independent expenditures;
6. the completeness of records; and
7. other committee operations necessary to the review.

Commission Guidance

Request for Early Commission Consideration of a Legal Question

Pursuant to the Commission's "Policy Statement Establishing a Program for Requesting Consideration of Legal Questions by the Commission," VDP requested early consideration of a legal question raised during the audit. VDP questioned whether the monthly time logs required under 11 C.F.R. §106.7(d)(1) applied to employees paid with 100 percent federal funds.

The Commission concluded, by a vote of 5-1, that 11 C.F.R. §106.7(d)(1) does require committees to keep a monthly log for employees paid exclusively with federal funds. Exercising its prosecutorial discretion, however, the Commission decided it will not pursue recordkeeping violations for the failure to keep time logs or to provide affidavits to account for employee salaries paid with 100 percent federal funds and reported as such. The Audit staff informed VDP Counsel of the Commission's decision on VDP's request. The finding presented in this audit report does not include VDP employees paid with 100 percent federal funds and reported as such.

Audit Hearing

VDP declined the opportunity for a hearing before the Commission on the matter presented in this report.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	October 20, 1976
• Audit Coverage	January 1, 2009 - December 31, 2010
Headquarters	Montpelier, Vermont
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Five federal and two non-federal
Treasurer	
• Treasurer When Audit Was Conducted	Linda Weiss (2/2011 – Present)
• Treasurer During Period Covered by Audit	Michael Inners (7/2006 – 4/2009) Edward Frey (4/2009 – 6/2009) Lloyd Touchette (6/2009 – 8/2009) Edward Clark (8/2009 – 2/2011)
Management Information	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid staff and volunteers

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2009	\$ 37,901
Receipts	
○ Contributions from Individuals	544,077
○ Transfers from Affiliated Committees	332,494
○ Transfers from Other Political Committees	219,000
○ All Other Receipts	89,791
Total Receipts	\$ 1,185,362
Disbursements	
○ Operating Expenditures	762,858
○ Federal Election Activity	238,300
○ All Other Disbursements	175,576
Total Disbursements	\$ 1,176,734
Cash-on-hand @ December 31, 2010	\$ 46,529

Part III Summary

Commission Finding

Recordkeeping for Employees

During audit fieldwork, the Audit staff determined that VDP did not maintain any monthly logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to VDP employees totaling \$203,472, for which monthly payroll logs were not maintained. All of the VDP employees were originally disclosed as having been paid with an allocation of federal and non-federal funds. After the exit conference, VDP amended its reports to disclose payments to employees as federal election activity.

In response to the Interim Audit Report recommendation, VDP submitted a plan to pay all employees with 100 percent federal funds. Further, VDP said it would maintain monthly timesheets for all employees paid with federal/non-federal allocated funds, in order to track the percentage of time each employee spends on federal election activity. The Audit staff considered this matter resolved.

The Commission approved a finding that VDP failed to maintain logs to document the time employees spent on federal election activity totaling \$203,472. (For more details, see p. 4.)

Part IV

Commission Finding

Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that VDP did not maintain any monthly logs, as required, to document the percentage of time each employee spent on federal election activity. For 2009 and 2010, the Audit staff identified payments to VDP employees totaling \$203,472, for which monthly payroll logs were not maintained. All of the VDP employees were originally disclosed as having been paid with an allocation of federal and non-federal funds. After the exit conference, VDP amended its reports to disclose payments to employees as federal election activity.

In response to the Interim Audit Report recommendation, VDP submitted a plan to pay all employees with 100 percent federal funds. Further, VDP said it would maintain monthly timesheets for all employees paid with federal/non-federal allocated funds, in order to track the percentage of time each employee spends on federal election activity. The Audit staff considered this matter resolved.

The Commission approved a finding that VDP failed to maintain logs to document the time employees spent on federal election activity totaling \$203,472.

Legal Standard

Maintenance of Monthly Logs. Party committees must keep a monthly log of the percentage of time each employee spends in connection with a federal election.

Allocations of salaries, wages, and fringe benefits are to be determined as follows:

- employees who spend 25 percent or less of their compensated time in a given month on federal election activities must be paid either from the federal account or be allocated as administrative costs;
- employees who spend more than 25 percent of their compensated time in a given month on federal election activities must be paid only from a federal account; and
- employees who spend none of their compensated time in a given month on federal election activities may be paid entirely with funds that comply with state law. 11 CFR §106.7(d)(1).

Facts and Analysis

A. Facts

During fieldwork, the Audit staff reviewed disbursements for payroll. VDP did not maintain any monthly logs or equivalent records to document the percentage of time each employee spent in connection with federal election activity. For 2009 and 2010, the

Audit staff identified payments to VDP employees totaling \$203,472³ for which payroll logs were not maintained. All of these individuals were originally disclosed as having been paid with an allocation of federal and non-federal funds. VDP had no employees paid with exclusively non-federal funds.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the payroll recordkeeping matter with VDP representatives during audit fieldwork and at the exit conference. VDP representatives stated that they were unable to locate the documentation requested and explained that these payroll expenditures were reported erroneously as shared federal/non-federal activity, instead of solely federal. Further, they stated plans to correct this error by comprehensively amending their reports and disclosing these expenditures as strictly federal activity. The Audit staff verified that the VDP had sufficient federal funds to cover both the federal and non-federal share of payroll costs. After the exit conference, VDP filed amended reports to disclose the payroll as federal election activity paid entirely with federal funds.

The Interim Audit Report recommended that VDP provide and implement a plan to maintain monthly payroll logs to track the percentage of time each employee spends on federal election activity.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report, VDP submitted a plan to pay all its employees with 100 percent federal funds and to report all its employees' salaries and benefits on Schedule B, line 30b (Itemized Disbursements- Federal Election Activity Paid Entirely with Federal Funds). The plan includes a contingency, in the event VDP ever has to pay employees with an allocation of federal and non-federal funds or solely with non-federal funds. VDP provided a sample payroll log to be used if such payment to employees were to occur. The contingency plan also requires the Executive Director to ensure that VDP keeps payroll logs, makes proper reports, maintains a reference file for continuity, and consults with VDP Counsel to ensure payment with the appropriate funds. Such action is consistent with Commission guidance with respect to payroll logs. The Audit staff considered this matter resolved.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that VDP plans to pay all its employees with 100 percent federal funds. VDP will maintain logs to track federal election activity for those employees who are paid all or in-part with non-federal funds.

E. Committee Response to the Draft Final Audit Report

VDP's response to the Draft Final Audit Report provided no additional comments.

Commission Conclusion

On January 16, 2014, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission adopt a

³ Payroll is stated net of taxes and benefits. Payments to VDP employees paid with 100 percent federal funds and reported as such are not included in this finding. (See Part I. Background. Commission Guidance. Request for Early Commission Consideration of a Legal Question. p. 1.)

finding that VDP failed to maintain logs to document the time employees spent on federal election activity totaling \$203,472.

The Commission approved the Audit staff's recommendation.