



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 23, 2019

**MEMORANDUM**

TO: Krista Roche  
Director  
Alternative Dispute Resolution Office

FROM: Patricia C. Orrock *PCO*  
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Audit Division

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SUBJECT: Oklahoma Democratic Party (A17-19) – Referral Matter

On July 5, 2019, the Commission approved the Proposed Final Audit Report on the Oklahoma Democratic Party. The report was released to the public on July 23, 2019. In accordance with the Materiality Thresholds for Unauthorized Committees, the Final Audit Report of the Commission includes matters that meet the criteria for referral to the Office of Alternative Dispute Resolution.

Finding – Misstatement of Financial Activity – Disbursements:  
Amount in Violation (\$36,852); Calendar Year (2015)

Finding – Misstatement of Financial Activity- Original Reports Filed -  
Receipts:  
Amount in Violation (\$1,796,094); Calendar Years (2015, 2016)

Finding – Misstatement of Financial Activity- Original Reports Filed -  
Disbursements:  
Amount in Violation (\$1,759,832); Calendar Years (2015, 2016)

Finding – Recordkeeping for Employees:  
Amount in Violation (\$39,410); Calendar Years (2015, 2016)

Currently, this committee is involved in an on-going Administrative Fines case (AF3557).

All workpapers and related documentation are available for review in the Audit Division. Should you have any questions regarding these matters, please contact Jeff Spilizewski or Rickida Morcomb at 694-1200.

Attachments: Finding – Misstatement of Financial Activity – Disbursements  
Finding – Misstatement of Financial Activity- Original Reports Filed – Receipts  
Finding – Misstatement of Financial Activity- Original Reports Filed -  
Disbursements  
Finding – Recordkeeping for Employees  
Designation of Counsel

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

### **Summary**

During audit fieldwork, a comparison of ODP's reported financial activity with its bank records revealed a misstatement of receipts and disbursements in calendar year 2015. Specifically, ODP understated receipts by \$30,581 and misstated disbursements by \$36,852. In response to the Interim Audit Report recommendation, ODP amended its disclosure reports correcting the misstatements for the 2015 calendar year. ODP provided no formal response to the Draft Final Audit Report.

In addition, a comparison of ODP's bank activity with its original reports filed for 2015 and 2016 also revealed a material misstatement of receipt and disbursement activity. In response to the Interim Audit Report recommendation, ODP had no further comments. ODP provided no formal response to the Draft Final Audit Report.

The Commission approved a finding that ODP understated receipts by \$30,581 and misstated disbursements by \$36,852 for calendar year 2015. Additionally, the Commission approved a finding that ODP understated receipts by \$1,796,094 and disbursements by \$1,759,832 on the original reports filed over the two-year period ending December 31, 2016.

### **Legal Standard**

**Contents of Federal 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). 52 U.S.C. §30104 (b)(1),(2),(3),(4) and (5).

### **Facts and Analysis**

#### **A. Misstatement of Financial Activity– Most Recent Reports Filed Prior to the Audit**

##### **1. Facts**

During audit fieldwork, the Audit staff reconciled ODP's reported financial activity with its bank records for calendar years 2015 and 2016. The reconciliation determined that ODP misstated receipts and disbursements for 2015. The following chart details the discrepancies between ODP's disclosure reports and bank activity. The succeeding paragraphs explain why the discrepancies occurred.

<b>2015 Committee Activity</b>			
	<b>Reported</b>	<b>Bank Records</b>	<b>Discrepancy</b>
Beginning Cash on hand @ January 1, 2015	\$ 3,745	\$ 1,972	\$ 1,773 Overstated
Receipts	\$336,499	\$367,080	\$30,581 Understated
Disbursements	\$347,650	\$357,585	\$ 9,935 Understated
Ending Cash on hand @ December 31, 2015	\$ 11,476 <sup>1</sup>	\$ 11,467	\$ 9 <sup>1</sup> Overstated

The beginning cash on hand was overstated by \$1,773 and the discrepancy is unexplained, but likely resulted from prior period discrepancies.

The misstatement of 2015 receipts resulted from the following:

• Transfers from Non-federal/Levin accounts not reported or misreported	\$ 4,971
• Contributions from individuals deposited into the Non-federal/Levin Accounts erroneously reported	(15,766)
• Contributions from individuals reported not supported by bank deposits	(18,066)
• Contributions from individuals not reported	57,247
• In-kind contribution not reported as a receipt	3,220
• Unexplained difference	<u>(1,025)</u>
<b>Net Understatement of Receipts</b>	<b><u>\$ 30,581</u></b>

ODP understated its 2015 disbursements by \$9,935. However, when evaluating the identified errors, regardless of whether the errors were under-reported or over-reported (absolute value), the Audit staff discovered that ODP misstated its disbursements by \$36,852 as follows:

The misstatement of disbursements resulted from the following:

• In-kind contributions reported twice	\$ 9,660
• In-kind contribution not reported as a disbursement	3,220
• Disbursements reported but did not clear the bank	3,630
• Transfers to the Non-federal/Levin Account not reported <sup>2</sup>	15,000
• Disbursements not reported	<u>5,342</u>
<b>Sum of Disbursement Adjustments</b>	<b><u>\$36,852</u></b>

<sup>1</sup> The reported ending cash on hand does not equal reported beginning cash on hand plus reported receipts minus reported disbursements. This was due to mathematical discrepancies between the reported beginning cash on hand of reporting periods not equaling the ending cash on hand of the prior reporting periods.

<sup>2</sup> The unreported transfers consisted of two transfers to the Levin Fund and to the Non-federal account for the excessive portion of a contribution deposited into the Federal account. These transfers were timely made and did not result in an excessive finding.

The \$9 overstatement of the ending cash on hand was a result of the reporting discrepancies described above.

## **2. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed this matter at the exit conference and provided ODP representatives a schedule of the misstated amounts. ODP representatives did not provide any comments.

The Interim Audit Report recommended that ODP amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)<sup>3</sup> to correct the misstatements noted above, reconcile the cash balance on its most recently filed report to include these adjustments and correct any subsequent discrepancies.

## **3. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, ODP amended its disclosure reports to correct the misstatements for the 2015 calendar year.

## **4. Draft Final Audit Report**

The Draft Final Audit Report acknowledged that ODP filed amended disclosure reports that corrected the misstatement of receipts and disbursements.

## **5. Committee Response to the Draft Final Audit Report**

ODP provided no formal response to the Draft Final Audit Report.

## **Commission Conclusion**

On June 20, 2019, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that ODP understated receipts by \$30,581 and misstated disbursements by \$36,852 for calendar year 2015.

The Commission approved the Audit staff's recommendation.

## **B. Misstatement of Financial Activity – Original Reports Filed**

### **1. Facts**

During audit fieldwork, in addition to examining ODP's most recent reports filed prior to audit notification, the Audit staff also compared its originally filed reports with its bank records. The purpose of this additional reconciliation was to identify the degree to which ODP had misstated its original filings.

The Audit staff calculated that ODP understated receipts by \$1,796,094 and disbursements by \$1,759,832 on the original reports filed over the two-year period ending December 31, 2016. These figures include the \$30,581 understatement of receipts and the \$9,935 understatement of disbursements from 2015 discussed in

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<sup>3</sup> ODP was advised by the Audit staff that if it chose to file a Form 99, instead of amending its disclosure reports, the form must contain all pertinent information that is required on each schedule.

Section A above (Misstatement of Financial Activity – Most Recent Reports Filed Prior to the Audit).

## **2. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed the understatement of receipts and disbursements on its original reports during the exit conference and provided ODP representatives a copy of the relevant schedule. ODP representatives asked questions for clarification but had no comments at the time.

The Interim Audit Report recommended that ODP provide any additional comments it deemed necessary with respect to this matter.

## **3. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, ODP had no further comments.

## **4. Draft Final Audit Report**

The Draft Final Audit Report acknowledged that ODP did not provide any additional comments with respect to this matter.

## **5. Committee Response to the Draft Final Audit Report**

ODP provided no formal response to the Draft Final Audit Report.

## **Commission Conclusion**

On June 20, 2019, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that ODP understated receipts by \$1,796,094 and disbursements by \$1,759,832 on the original reports filed over the two-year period ending December 31, 2016.

The Commission approved the Audit staff's recommendation.

# **Finding 3. Recordkeeping for Employees**

## **Summary**

During audit fieldwork, the Audit staff determined that ODP did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent in connection with a federal election. For 2015 and 2016, the Audit staff identified payments to ODP employees totaling \$39,410 for which ODP did not maintain monthly payroll logs. This consisted of payroll which was allocated with federal and non-federal funds. There was no payroll paid exclusively with non-federal funds. ODP representatives responded, during fieldwork and the exit conference, that it did not maintain payroll logs for employees during calendar years 2015 and 2016, but has implemented a process to record this information in conjunction with employees' timesheets. In response to the Interim Audit Report recommendation, ODP had no further comments. ODP provided no formal response to the Draft Final Audit Report.

The Commission approved a finding that ODP did not maintain monthly payroll logs or equivalent records totaling \$39,410 to document the percentage of time each employee spent in connection with a federal election for calendar years 2015 and 2016.

### **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 undertaken 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 audit fieldwork, the Audit staff reviewed disbursements for payroll. ODP did not maintain any monthly payroll logs or equivalent records to document the percentage of time each employee spent in connection with a federal election. These logs are required to document the proper allocation of federal and non-federal funds used to pay employee salaries and wages. For 2015 and 2016, ODP did not maintain monthly logs for \$39,410 in payroll.<sup>4</sup> This amount includes payroll for employees reported on Schedule H4 (Disbursements for Allocated Federal and Non-Federal Activity) and paid with an allocation of federal and non-federal funds during the same month. There was no payroll paid exclusively with non-federal funds.

#### **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed the recordkeeping requirement with ODP representatives during fieldwork and at the exit conference. ODP representatives responded that ODP did not maintain payroll logs for employees during calendar years 2015 and 2016, but has implemented a process to record this information in conjunction with employees' timesheets.

The Interim Audit Report recommended that ODP provide any comments it deemed relevant to this matter.

#### **C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, ODP had no further comments.

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<sup>4</sup> This total does not include payroll for employees paid with 100 percent federal funds and reported as such (see Part I, Background, Commission Guidance, Request for Early Commission Consideration of a Legal Question, Page 1). Payroll amounts do not include fringe benefits.

**D. Draft Final Audit Report**

The Draft Final Audit Report acknowledged that ODP did not maintain payroll logs for employees during calendar years 2015 and 2016, but had implemented a process to record this information in conjunction with employees' timesheets.

**E. Committee Response to the Draft Final Audit Report**

ODP provided no formal response to the Draft Final Audit Report.

**Commission Conclusion**

On June 20, 2019, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that ODP did not maintain monthly payroll logs or equivalent records totaling \$39,410 to document the percentage of time each employee spent in connection with a federal election for calendar years 2015 and 2016.

The Commission approved the Audit staff's recommendation.