



OFFICE OF CAMPAIGN FINANCE  
DISTRICT OF COLUMBIA BOARD OF ELECTIONS  
WASHINGTON, D.C. 20009

REPORT OF THE REPORTS ANALYSIS AND AUDIT DIVISION

On

GRAY FOR MAYOR 2010

EXECUTIVE SUMMARY

This investigative audit arose from an investigation into the financial activity of the Gray for Mayor Principal Campaign Committee that was initiated by the Office of Campaign Finance's Office of the General Council.

The Gray for Mayor (Principal Campaign Committee) registered with the Office of Campaign Finance on April 14, 2010. The Committee was the principal campaign committee of the candidate in the General Election for the Office of the Mayor of the District of Columbia.

The audit was conducted pursuant to D.C. Official Code Section 1-1163.04(8).

The findings of the audit were presented to the Committee in the Preliminary Audit Report issued on December 16, 2011. The responses of the Committee to the audit findings and recommendations are contained in the Audit Report.

The Committee filed an Amended January 31, 2011 Report on March 19, 2012.

The following is an overview of the findings contained in the Audit Report.

**The Audit staff submits that the findings represented herein are a result of inadequate recordkeeping on the part of the Committee officials.**

**MISSTATEMENT OF FINANCIAL ACTIVITY**

The Audit staff compared the Committee's reported figures with its bank statements and records and found that the Committee had understated its total receipts by \$108,643.07; its total expenditures by \$115,688.50; and, its ending cash on hand balance by \$7,045.43. In the Preliminary Audit Report, the Audit staff recommended that the Committee correct its misstatement of financial activity by making the appropriate adjustments as noted in the audit findings and submit an Amended January 31, 2011 Report reflecting the adjustments. On March 19, 2012, the Committee submitted an Amended January 31, 2011 Report as recommended by the Audit staff.

**RECEIPTS NOT REPORTED**

D.C. Official Code Sections 1-1163.09(c)(2) and (7). The audit found that the Committee failed to report: 1) thirteen (13) in-kind contributions totaling \$16,088.64; two hundred-eight (208) contributions totaling \$61,412.30; fifteen (15) credit memoranda

totaling \$4,380.20; and, two (2) bank transfers totaling \$60,000. Additionally, there was an irreconcilable difference of \$31,889.24 in total reported receipts versus total receipts per bank records. In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended January 31, 2011 Report inclusive of the aforementioned receipts that were previously unreported. On March 19, 2012, the Committee filed an Amended January 31, 2011 Report inclusive of the receipts that were previously unreported .

#### **UNDERSTATED CONTRIBUTIONS**

The audit found that the Committee reported twenty-seven (27) contributions that were either overstated or understated which resulted in a \$3,481 understatement in total receipts. In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended January 31, 2011 Report correcting the aforementioned understatement in total receipts in the amount of \$3,481. On March 19, 2012, the Committee filed an Amended January 31, 2011 Report correcting the \$3,481 overstatement in total receipts as recommended by the Audit staff.

#### **MERCHANT FEES NOT NEGOTIATED**

The audit found that the Committee erroneously reported fees charged by Cybersource, the merchant that processed the Committee's credit card contributions. The Committee reported fees totaling \$163,035.39; however, merchant statements indicate that the actual amount was \$158,205.56 (a difference of \$4,829.83). In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended January 31, 2011 Report including the \$4,829.83 difference in merchant fees that should have been reported. On March 19, 2012, the Committee filed an Amended January 31, 2011 Report in which the \$4,829.83 in merchant fees were excluded from total contributions.

#### **EXCESSIVE CONTRIBUTIONS**

D.C. Official Code Section 1-1163.33(a)(1). The audit found that the Committee accepted nine (9) excessive contributions totaling \$12,550. In the Preliminary Audit Report, the Audit staff recommended that the Committee refund the excessive portion of each contribution and provide documentation of the completed transactions. In its Response to the Preliminary Audit Report on April 17, 2012 the Committee stated that it would refund the excessive portion to each contributor. However, the Committee did not provide documentation of the negotiated transactions refunding the excessive portion to each contributor/entity as recommended by the Audit staff. Therefore, the Audit staff will refer the matter to the OCF General Counsel for appropriate action.

#### **EXPENDITURES NOT REPORTED**

D.C. Official Code Sections 1-1163.09(c)(8) and (9). The audit found that the Committee failed to report: sixty-three (63) expenditures totaling \$134,104.36; three (3) wire transfers totaling \$65,408; eighty-four (84) bank charges totaling \$2,848.75; nineteen (19) direct debits totaling \$982.353; credit card fees totaling \$4,829.83; fifty (50) debit memos totaling \$33,724.50; and, thirteen (13) in-kind expenditures totaling \$16,088.64. Additionally, there was a \$622.72 irreconcilable difference in total reported receipts and receipts per Committee bank records. In the Preliminary Audit Report, the

Audit staff recommended that the Committee file an Amended January 31, 2011 Report inclusive of the aforementioned expenditures that were previously unreported. On March 19, 2012, the Committee filed an Amended January 31, 2011 Report inclusive of the expenditures that were previously unreported.

#### **ERRONEOUSLY REPORTED VOIDED EXPENDITURES**

The audit found that the Committee reported five (5) expenditures totaling \$28,500 that were voided. In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended January 31, 2011 Report excluding the aforementioned expenditures that were previously voided. On March 19, 2012 the Committee filed an Amended January 31, 2011 Report excluding the expenditures that were previously voided.

#### **EXPENDITURES NOT NEGOTIATED**

The audit found that the Committee reported eighty-six (86) expenditures totaling \$96,037.71 that were not negotiated through the Committee's bank account. This was evidenced through the review of Committee bank statements and records. In the Preliminary Audit Report, the Audit staff recommended that the Committee provide evidence that these expenditures were negotiated through the bank account of the Committee. In its Response, the Committee did not provide evidence that the aforementioned expenditures were negotiated through the bank account of the Committee. Therefore, the Audit staff disallowed the expenditures. On March 19, 2012, the Committee filed an Amended January 31, 2011 Report excluding the expenditures that were not negotiated through the bank account of the Committee.

#### **EXPENDITURES REPORTED IN DUPLICATE**

The audit found that the Committee reported in duplicate seven (7) expenditures totaling \$16,689.41. This was revealed through the review of Committee bank statements and records. In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended January 31, 2011 Report excluding the expenditures that were previously reported in duplicate. On March 19, 2012, the Committee filed an Amended January 31, 2011 Report excluding the aforementioned expenditures that were previously reported in duplicate.

#### **OVERSTATED EXPENDITURES**

The audit found that the Committee reported seven (7) expenditures that were either overstated or understated which resulted in a \$715.43 overstatement in total expenditures. In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended January 31, 2011 Report correcting the aforementioned overstatement in total expenditures in the amount of \$715.43. On March 19, 2012, the Committee filed an Amended January 31, 2011 Report correcting the \$715.43 overstatement in total expenditures.

### **ERRONEOUSLY REPORTED BANK CREDIT**

The audit found that the Committee erroneously reported a bank credit (receipt) in the amount of \$978.10 as a bank debit (expenditure) on its Report of Receipts and Expenditures. In the Preliminary Audit Report, the Audit staff recommended that the Committee file an Amended January 31, 2011 Report reflecting the receipt of the bank credit that was erroneously reported as a bank debit. On March 19, 2012, the Committee filed an Amended January 31, 2011 Report correctly reporting the bank credit that was previously reported as a bank debit.

### **CASH DISBURSEMENTS**

D.C. Official Code Sections 1-1163.08(a) and (b). 3 DCMR Sections 3010.1 and 3010.3(b). The audit found that the Committee issued seven (7) checks totaling \$103,348 that were made payable to the Committee treasurer. In the Preliminary Audit Report, the Audit staff recommended that the Committee provide an explanation and documentation to substantiate the payments to the Committee treasurer totaling \$103,348. In its response, the Committee stated that the monies were used to pay election day activities, poll workers, polling/ mailing list, reimbursements, meals, and campaign activities. Through the review of documents provided by the Committee, the Audit staff was unable to verify that all seven (7) payments were actually used for the purpose as stated by the Committee. Therefore, the Audit staff will refer the matter to the OCF General Counsel for appropriate action.

### **RECORDKEEPING - RECEIPTS**

3 DCMR Section 3400.2. The audit found that the Committee did not provide proper documentation to substantiate two thousand five hundred and sixty-eight (2,568) contributions totaling \$855,076.98. In the Preliminary Audit Report, the Audit staff recommended that the Committee provide proper documentation to substantiate each of the aforementioned contributions. In its Response, the Committee provided the proper documentation to substantiate the aforementioned contributions.

### **RECORDKEEPING – PAYMENTS TO CONSULTANTS**

D.C. Official Code Section 1-1163.07(5)(B) and 3 DCMR Section 3400.2. The audit found that the Committee made a series of payments to six (6) individuals for “consulting services” for which the Committee failed to provide supporting documentation (contracts/statements of work). In the Preliminary Audit Report, the Audit staff recommended that the Committee provide the proper documentation outlining the type of consulting services provided. The Audit staff further recommended that the Committee establish internal control procedures when making payments to individuals for consulting services. The Committee did not provide the Audit staff with the proper documentation nor did the Committee establish internal control procedures as recommended by the Audit staff. Therefore, the Audit staff will refer the matter to the OCF General Counsel for appropriate action.

### **WIRE TRANSFER NOT DISCLOSED**

Through the review of Committee bank statements and records, the audit found that the Committee received a transfer in and made a transfer out in the amount of \$25,000 each

on April 4, 2010 and April 7, 2010, respectfully, from an unidentified source. In the Preliminary Audit Report, the Audit staff recommended that the Committee provide an explanation and documentation to identify the source and use of the aforementioned \$25,000 transfers. In its Response, the Committee provided an explanation as to the source and use of the transfers which the Audit staff determined to be proper and adequate.

#### **IN-KIND EXPENDITURES NOT PROPERLY DOCUMENTED**

The audit found that the Committee reported seventeen (17) in-kind expenditures totaling \$13,317.73 that were not properly documented. In the Preliminary Audit Report, the Audit staff recommended that the Committee provide the proper documentation to substantiate the aforementioned in-kind expenditures. The Committee did not provide documentation for eight (8) of the seventeen (17) in-kind expenditures. The Audit staff submits that the total amount of the eight (8) in-kind expenditures or \$3,153.66 fell below RAAD's threshold for referral for corrective action in view of the total expenditures reported by the Committee.

#### **MONEY ORDERS**

The audit found that the Committee received forty-five (45) contributions totaling \$7,220 in the form of money orders. Through the review of Committee documents, the Audit staff was unable to verify the accuracy of several money orders received by the Committee. In the Preliminary Audit Report, the Audit staff recommended that the Committee provide detailed explanations regarding its internal control procedures when accepting contributions in the form of money order. In its response, the Committee provided written internal control procedures which the RAAD determined were within reasonable standards.

#### **CASH CONTRIBUTIONS/CONTRIBUTOR CARDS**

D.C. Official Code Section 1-1163.33(c). The audit found that there were three (3) cash contributions totaling \$190 received in excess of the \$25.00 contribution limitation. In its Response, the Committee did not address this issue. Therefore, the Audit staff will refer the matter to the OCF General Counsel for appropriate action.

#### **OVERALL RECOMMENDATION**

The Audit staff has determined that that the reports, statements, and responses filed by the Committee are not in substantial compliance with D.C. Official Code Section 1-1163.09. Therefore, this investigative audit is being referred to the OCF General Counsel for possible violations of campaign finance laws.



# Office of Campaign Finance

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**AUDIT REPORT ON  
THE GRAY FOR MAYOR  
PRINCIPAL CAMPAIGN COMMITTEE  
2010 GENERAL ELECTION**

**JANUARY 2016**

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REPORTS ANALYSIS AND AUDIT DIVISION  
OFFICE OF CAMPAIGN FINANCE  
WASHINGTON, DC 20009

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## **I. BACKGROUND**

### **A. AUTHORITY FOR THE AUDIT**

This investigative audit arose from an investigation into the financial activity of the Gray for Mayor Principal Campaign Committee that was initiated by the Office of Campaign Finance's Office of the General Counsel. This report is based upon a field audit of the Statements and Reports of Receipts and Expenditures filed by the Gray for Mayor Committee ("the Committee"). The audit was undertaken by the Reports Analysis and Audit Division ("RAAD") of the Office of Campaign Finance ("OCF") in accordance with D.C. Official Code Section 1-1163.04(8). The purpose of the audit was to determine whether the Committee complied with the applicable provisions of the Code.

### **B. SCOPE OF THE AUDIT**

The field audit covered the period March 31, 2010 through January 31, 2011, and entailed a verification and/or examination of: 1) the mathematical accuracy of the Reports of Receipts and Expenditures filed with the Director, Office of Campaign Finance, during the period audited; 2) the total reported receipts, expenditures, and individual transactions with the source documents; 3) the compliance with the contribution limitations as mandated by D.C. Official Code Section 1-1163.33(a)(1); 4) the Committee debts and obligations; 5) the proper categorization of the Committee's receipts and expenditures; and, 6) any additional review procedures as deemed necessary under the circumstances.

### **C. CAMPAIGN ORGANIZATION**

#### **1. THE CANDIDATE**

Vincent C. Gray, a candidate in the 2010 General Election for the Office of Mayor of the District of Columbia ("the Candidate"), registered with the OCF on March 30, 2010 in accordance with D.C. Official Code Section 1-1163.12(a). In his Statement of Candidacy, the Candidate designated "Gray for Mayor" as his Principal Campaign Committee ("the Committee"). The Candidate also filed a Request for a Candidate Waiver of the reporting requirements for the filing of Candidate Reports of Receipts and Expenditures pursuant to Section 3004.1 of the District of Columbia Municipal Regulations (DCMR), Title 3 (Elections and Ethics).

#### **2. THE PRINCIPAL CAMPAIGN COMMITTEE**

The Committee registered with the OCF on March 30, 2010 in accordance with D.C. Official Code Section 1-1163.07(1). According to its Statement of Organization, the Committee's principal officers were Betty R. Brown, Treasurer, and Lorraine Green, Chairperson. The required Acceptance of Treasurer and Chairperson forms were filed on March 30, 2010. The Statement of Organization identified the Committee's bank depository as the Bank of America, 635 Massachusetts Avenue, NW, Washington, DC

20001. The Statement of Organization did not provide the account numbers for accounts at its bank depository. However, through the review of the Committee's bank records, RAAD determined that the Committee held two bank accounts at Bank of America. The first account was opened on March 31, 2010, and the second account was opened on August 11, 2010. The Committee amended its Statement of Organization to include both bank accounts and the appropriate account numbers on April 20, 2012.

#### **D. THE PRELIMINARY AUDIT REPORT**

On December 16, 2011, RAAD issued a Preliminary Audit Report ("PAR") that contained the findings set forth herein. The Committee's response to the PAR was due on January 16, 2012. The Committee requested, and was granted, a 60-day extension due to the number of findings noted in the PAR. On March 19, 2012, OCF officials met with Committee officials, at which time the Committee filed an Amended Consolidated Report as recommended by RAAD in the PAR. On that date, the Committee requested a 30-day extension in which to provide additional documentation requested in the PAR. On April 17, 2012, OCF officials met with Committee officials to receive the documentation and other outstanding information. The Committee's responses to the PAR are presented in the findings as indicated below.

## **II. FINDINGS AND RECOMMENDATIONS**

**The Audit staff submits that the sum of the findings denote the exercise of inadequate recordkeeping on the part of the Committee officials.**

### **A. MISSTATEMENT OF FINANCIAL ACTIVITY**

#### **Summary**

A comparison of the Committee's reported financial activity to bank records determined that there was a misstatement of receipts, disbursements, and the ending cash balance for the period audited.

#### **Legal Standard**

D.C. Official Code Sections 1-1163.09(c) (1) (7) and (9) provide that each Report of Receipts and Expenditures must disclose: 1) the amount of cash on hand at the beginning and end of the reporting period; 2) the total sum of all receipts by or for such committee or candidate during the reporting period; and 3) the total sum of expenditures made by such committee or candidate during the calendar year.

#### **Facts and Analysis**

The Committee's initial report, filed in June of 2010, disclosed a beginning cash balance of \$0.00. The reports filed by the Committee during the period covered reflected total aggregated receipts of \$2,774,582.23; total aggregated expenditures of \$2,764,953.55; and an ending cash



balance of \$9,628.18. However, the audit found receipts and expenditures totaling \$2,883,225.30 and \$2,880,642.05, respectively, with an ending cash balance of \$2,583.25.

RAAD reconciled the reported activity to the bank records and determined that there was a misstatement of receipts, disbursements, and the ending cash balance for the period audited. The following chart outlines the discrepancies between the totals on the Committee's disclosure reports and the bank records:

	<b>Reported</b>	<b>Bank Statement</b>	<b>Discrepancy</b>
<b>Receipts</b>	\$2,774,582.23	\$2,883,225.30	\$108,643.07 understated
<b>Disbursements</b>	\$2,764,953.55	\$2,880,642.05	\$115,688.50 understated
<b>Ending Cash Balance</b>	\$9,628.68	\$2,583.25	\$7,045.43 overstated

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

- Unreported Receipts (including in-kind contributions credit memos and bank transfers) + \$141,881.14
- Irreconcilable Difference - \$31,889.24
- Net Understatement of Contributions + \$3,481
- Cybersource: Merchant Fees Not Negotiated - \$4,829.83

**Net Understatement** **\$108,643.07**

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

- Unreported disbursements (including expenditures, wire transfers, bank charges, direct debits, debit memos and in-kind contributions) + \$257,986.43
- Irreconcilable Difference + \$622.72
- Erroneously Reported Voided Expenditures - \$28,500
- Expenditures Not Negotiated Through Committee Accounts - \$96,037.71
- Expenditures Reported in Duplicate - \$16,689.41
- Net Understatement of Expenditures - \$715.43
- Erroneously Reported Bank Credit - \$978.10

**Net Understatement** **\$115,688.50**

**PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee correct the misstatement of its financial activity by reviewing and re-calculating all transactions and file an Amended Consolidated Report that reflects such corrections.

On March 19, 2012, the Committee filed an Amended January 31, 2011 Report that reflected the corrections suggested by RAAD in the PAR.

## **B. RECEIPTS**

### **1. UNREPORTED RECEIPTS**

#### **Summary**

The audit found that the Committee failed to report a total of \$141,881.14 in contributions; and that there was an irreconcilable difference of \$31,889.24 in total reported receipts versus total receipts per bank records.

#### **Legal Standard**

D.C. Official Code Sections 1-1163.09(c)(2) and (7) provide that, "Each report under this section shall disclose: ... [t]he full name and mailing address, including the occupation and the principal place of business, if any, of each person who has made one or more contributions to or for such committee or candidate, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, within the calendar year in an aggregate amount or value in excess of \$50 or more, together with the amount and date of the contributions; [and the] total sum of all receipts by or for a committee or candidate during the reporting period[.]"

#### **Facts and Analysis**

The audit found that the Committee failed to report a total of \$141,881.14 in receipts, including: 1) thirteen (13) in-kind contributions totaling \$16,088.64; 2) 208 contributions totaling \$61,412.30, which were identified through the review of copies of contributor checks, money orders, cashier checks, credit cards, and/or cash provided by the Committee; 3) fifteen (15) credit memoranda totaling \$4,380.20 as indicated on Committee bank statements; and 4) two (2) bank transactions that were transferred into the Committee bank account totaling \$60,000. In addition, RAAD determined there was an irreconcilable difference of \$31,889.24 in total reported receipts versus total receipts per bank records.

The Committee's records substantiating its receipts were incomplete. There were several contributions reported on the Reports of Receipts and Expenditures for which there was no documentation, *i.e.*, copies of contributor checks, money orders, cashier checks, credit cards, and/or cash, provided. Additionally, the Committee did not provide deposit slips that may have presented more detailed information on each deposit as captured on Committee bank statements. Therefore, RAAD was unable to reconcile the \$31,889.24 difference between the total reported receipts and the total receipts stated by bank records. RAAD submits that supporting documentation is required to reach the conclusion that the \$31,889.24 irreconcilable difference may be incorporated with those contributions that were reported by the Committee.

## **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee: 1) file an Amended January 31, 2011 Report that includes all of the contributions and receipts that were previously unreported; 2) provide an explanation for the irreconcilable difference in total receipts of \$31,889.24 as reported in its Reports of Receipts and Expenditures; and 3) establish and adhere to internal control procedures regarding campaign finance recordkeeping rules and regulations when accepting contributions. However, on March 19, 2012, the Committee submitted an Amended January 31, 2011 Report that included the \$141,881.14 in receipts and contributions that were previously unreported. The Committee failed to provide an explanation for the irreconcilable difference. Although the Committee provided copies of its deposit slips for bank transactions, it failed to provide associated contributor checks, thereby impairing RAAD's ability to reconcile the disputed difference of \$31,889.24.

On April 20, 2012, the Committee provided documentation that purported to dispute the \$31,889.24 irreconcilable difference. RAAD found the documentation insufficient to substantiate the total disputed irreconcilable amount of \$31,889.24.

## **2. NET UNDERSTATEMENT OF CONTRIBUTIONS**

### **Summary**

The audit found twenty-seven (27) contributions that were either overstated or understated on the Committee's Reports of Receipts and Expenditures.

### **Facts and Analysis**

The twenty-seven (27) contributions that were either overstated or understated on the Committee's Reports of Receipts and Expenditures resulted in a net understatement in total receipts in the amount of \$3,481.

## **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee file an Amended January 31, 2011 Report to correct the aforementioned understatement of \$3,481 in total receipts.

On March 19, 2012, the Committee submitted an Amended January 31, 2011 Report that corrected the \$3,481 discrepancy.

### 3. MERCHANT FEES NOT NEGOTIATED

#### Summary

The audit found that the Committee erroneously reported fees charged by *Cybersource*, the merchant that processed the Committee's credit card contributions.

#### Facts and Analysis

The Committee received nine (9) credit card deposits totaling \$158,205.56. The total fees charged by *Cybersource* for these deposits amounted to \$4,829.83. The Committee erroneously reported the total contribution amount as \$163,035.39, which included the merchant's fees, thereby overstating the total contribution amount by \$4,829.83.

#### PAR Recommendation and Committee Response

In the PAR, RAAD recommended that the Committee file an Amended January 31, 2011 Report correcting the inclusion of merchant fees in the total contribution amount.

On March 19, 2012, the Committee submitted an Amended January 31, 2011 Report in which the \$4,829.83 in merchant fees were excluded from the total contributions received.

### 4. EXCESSIVE CONTRIBUTIONS

#### Summary

The audit found that the Committee may have accepted nine (9) excessive contributions totaling \$12,550.

#### Legal Standard

D.C. Official Code Section 1-1163.33(a)(1) provides that, "[n]o person shall make any contribution which, and no person shall receive any contribution from any person which, when aggregated with all other contributions received from that person relating to a campaign for nomination as a candidate or election to public office, including both the primary and general election or special elections, exceeds: (1) In the case of a contribution in support of a candidate for Mayor or for the recall of the Mayor, \$2,000[.]"

D.C. Official Code Section 1-1163.33(i) provides that, "[a]ll contributions made by a person directly or indirectly to or for the benefit of a particular candidate or that candidate's political committee that are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate or political committee shall be treated as contributions from that person to that candidate or political committee and shall be subject to the limitations established by this act."

3 DCMR Section 3011.20 provides that, "A corporation, its affiliated entities, including its subsidiaries and each committee established, financed, maintained or controlled by the corporation and its affiliated entities share a single contribution limitation."

D.C. Official Code Section 1-1163.34(a) requires that a contribution made by a partnership must be attributed to both the partnership and to each partner, on the Reports of Receipts and Expenditures. A partner's contribution must be attributed in direct proportion to the partner's share of the partnership profits according to instructions which must be provided by the partnership to the political committee, political action committee, or candidate; or by agreement of the partners, as long as only the profits of the partners to whom the contributions are attributed are reduced (or losses increased) in proportion to the contribution attributed to each of them. Contributions by a partnership or by a partner may not exceed the limitations on contributions as prescribed by D.C. Official Code Section 1-1163.34(b).

3 DCMR Section 3712.2 requires the repayment of the amount of the excessive contribution to the contributor within fifteen (15) days of notice that an excessive contribution has been made.

### **Facts and Analysis**

The audit found nine (9) potential excessive contributions totaling \$12,550. A review of committee bank records did not disclose that these excessive contributions were refunded to the contributors.

### **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee refund the excessive portion of each contribution to each contributor, and provide documentation of the completed transaction (i.e., copies of the front and back of each negotiated cancelled check) to OCF for review.

On April 17, 2012, the Committee responded by providing a list of the aforementioned excessive contributions, and stated that it would refund the excessive portions. To date, the Committee has not provided documentation to confirm that the refunds were made.

Therefore, RAAD submits that the Committee is in violation of D.C. Official Code Section 1-1163.33(a)(1), and RAAD will refer this matter to the OCF General Counsel for appropriate action.

## C. DISBURSEMENTS

At the commencement of the audit, RAAD determined that the Committee did not provide copies of cancelled checks for expenditures that were made according to Committee Bank Statements. On March 19, 2012, the Committee provided copies of required cancelled checks for expenditures that were listed on Committee Bank Statements.

### 1. UNREPORTED DISBURSEMENTS

#### Summary

The audit found that the Committee failed to report a total of \$257,986.43 in expenditures. Further, there was an irreconcilable difference of \$622.72 in total reported disbursements versus total disbursements per bank records.

#### Legal Standard

D.C. Official Code Sections 1-1163.09(c)(8) and (9), provide that, “[e]ach report under this section shall disclose: [t]he full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by a committee or on behalf of a committee or candidate within the calendar year in an aggregate amount or value of \$10 or more, the amount, date, and purpose of each expenditure, and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made; [and the] total sum of expenditures made by a committee or candidate during the calendar year[.]”

#### Facts and Analysis

The audit found that the Committee failed to report a total of \$257,986.43 in disbursements, including: 1) sixty-three (63) expenditures totaling \$134,104.36; 2) three (3) wire transfers totaling \$65,408; 3) eighty-four (84) bank charges totaling \$2,848.75; 4) nineteen (19) direct debits totaling \$982.35; 5) *Cybersource* (credit card contribution processor) fees totaling \$4,829.83; and 6) fifty (50) debit memos totaling \$33,724.50. In addition, the Committee failed to report thirteen(13) \$16,088.64 in in-kind expenditures totaling \$16,088.64 related to in-kind contributions received.

## **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee file an Amended January 31, 2011 Report that includes each of the aforementioned expenditures, including the irreconcilable difference in the amount of \$622.72 that was previously unreported.

On March 19, 2012, the Committee submitted an Amended Consolidated Report that included each of the aforementioned expenditures that were previously unreported, as well as the \$622.72 irreconcilable difference in expenditures.

### **2. ERRONEOUSLY REPORTED VOIDED EXPENDITURES**

#### **Summary**

The audit found that the Committee erroneously reported as expenditures five (5) checks/payments that were actually voided.

#### **Facts and Analysis**

The five (5) voided checks/payments totaled \$28,500.

## **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee file an Amended January 31, 2011 Report to exclude the voided checks/payments that were erroneously reported as expenditures on the Committee's Reports of Receipts and Expenditures.

On March 19, 2012, the Committee submitted an Amended January 31, 2011 Report which excluded the aforementioned voided expenditures.

### **3. EXPENDITURES NOT NEGOTIATED THROUGH COMMITTEE ACCOUNTS**

#### **Summary**

The audit found that the Committee made seven (7) payments totaling \$103,348 to the Committee treasurer and that the committee treasurer used the funds to make several expenditures totaling \$96,037.71 which were not negotiated through the Committee's bank account.

## **Facts and Analysis**

The Committee records indicate that it made 108 expenditures that were not negotiated through the Committee's bank accounts. These expenditures totaled \$96,037.71.

In addition, RAAD's review of Committee records found that the seven (7) check payments totaling \$103,348 were made payable to Betty Brown, the Committee treasurer. The stated purposes for these checks were "polling/ mailing list," "election day activities," "paying poll workers," "reimbursements," "meals," and "campaign activities." RAAD submits that the Committee treasurer cashed these checks and used the cash to make payments to other individuals for the purposes noted. However, D.C. Official Code, Section 1-1163.08(a) provides in pertinent part that "...No expenditure may be made by a committee or candidate except by check drawn payable to the person to whom the expenditure is being made on that account or accounts, other than petty cash expenditures as provided in subsection (b) of this section."

## **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee file an Amended January 31, 2011 Report which excluded the aforementioned expenditures that were not negotiated through the Committee's bank account.

On March 19, 2012, the Committee submitted an Amended January 31, 2011 Report in which the expenditures that were not negotiated through the Committee's bank accounts were excluded. The cash disbursements for payment of the 108 expenditures which totaled \$96,037.71 is further discussed in Section C7 of this Report.

## **4. EXPENDITURES REPORTED IN DUPLICATE**

### **Summary**

The audit revealed that the Committee erroneously reported seven (7) expenditures in duplicate on its Reports of Receipts and Expenditures.

### **Facts and Analysis**

The Committee erroneously reported seven (7) expenditures in duplicate on its Reports of Receipts and Expenditures totaling \$16,689.41.

### **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee file an Amended January 31, 2011 Report to exclude the duplicate expenditures that were reported on its Reports of Receipts and Expenditures.



On March 19, 2012, the Committee submitted an Amended January 31, 2011 Report in which the duplicate expenditures were excluded from its Reports of Receipts and Expenditures.

## **5. NET OVERSTATEMENT OF EXPENDITURES**

### **Summary**

The audit found that the Committee erroneously overstated the actual amount of seven (7) expenditures.

### **Facts and Analysis**

The Committee's erroneous reporting of the amount of seven (7) expenditures resulted in a net overstatement of total expenditures in the amount of \$715.43.

### **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee file an Amended January 31, 2011 Report to correct the aforementioned overstatement in total expenditures of \$715.43.

On March 19, 2012, the Committee filed an Amended January 31, 2011 Report that corrected the overstatement of total expenditures in the amount of \$715.43.

## **6. ERRONEOUSLY REPORTED BANK CREDIT**

RAAD's review of the Committee's bank statements found that a bank credit (receipt) in the amount of \$978.10 was erroneously reported as a bank debit (expenditure) on the Committee's Reports of Receipts and Expenditures.

On March 19, 2012, the Committee submitted an Amended January 31, 2011 Report that correctly reported the bank credit as reflected in the Committee's Bank Statements.

## **7. CASH DISBURSEMENTS**

### **Summary**

The Committee issued seven (7) payments totaling \$103,348 by check to the Committee's treasurer for further disbursement by cash.

## **Legal Standard**

D.C. Official Code Section 1-1163.08(a), provides in pertinent part that, “[n]o expenditures may be made by a committee or candidate except by check drawn payable to the person to whom the expenditure is being made on that account or accounts, other than petty cash expenditures as provided in subsection (b) of this section.”

3 DCMR Section 3010.1 provides that, “[a] candidate, political committee, political action committee, independent expenditure committee, and statehood fund may maintain a Petty Cash Fund which shall not exceed three hundred dollars (\$300) at any time.”

3 DCMR Section 3010.3 (b) provides that, “[c]ash expenditures shall not exceed fifty dollars (\$50) to any person in connection with a single purchase or transaction.”

D.C. Official Code Section 1-1163.07(5)(B), provides that, “[t]he treasurer or candidate, shall obtain and preserve receipted bills and records as may be required by the Elections Board.”

## **Facts and Analysis**

As noted in Section C.3 above, seven (7) check payments totaling \$103,348 were made payable to Betty Brown, the Committee treasurer, for the stated purposes of “polling/mailling list,” “election day activities,” “paying poll workers,” “reimbursements,” “meals,” and “campaign activities.”

Based upon the review of Committee records, RAAD found that the Committee’s treasurer used the aforementioned payments to make cash payments to individuals who were retained to provide election services.

During the initial audit fieldwork, the Committee failed to provide adequate documentation to indicate the uses of the aforementioned payments. Therefore, because of the movement of cash from one individual to another, RAAD was unable to trace and verify that these payments were actually used for the purposes stated by the Committee on its Reports of Receipts and Expenditures.

While the Committee did subsequently provide copies of expense reports, requisition forms submitted for payment, pay due affidavits, verification statements of cash received, and money receipts, this documentation was not provided in an organized manner. Thus, RAAD was unable to directly connect the documentation to the payments that were made to the Committee’s treasurer and the individuals who worked on the campaign.

## **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee provide documentation of the cash disbursements in a clear and discernible manner, and establish internal control procedures that

would ensure that all cash payments to individuals/entities are accompanied by complete documentation, providing a breakdown of the uses of these funds.

The Committee failed to provide RAAD with any documentation to demonstrate that internal control procedures were established to ensure that all cash payments to individual/entities are accompanied by complete documentation as recommended by RAAD in the PAR.

On April 17, 2012, the Committee provided RAAD with a schedule containing a breakdown of the \$103,348 paid to the Committee's treasurer. RAAD was unable to follow the Committee's entire accounting relative to the \$103,348. RAAD was, however, able to verify, based upon copies of deposit slips provided by the Committee, that \$93,849.30 of the \$103,348 payments to the Committee treasurer were made as follows: 1) \$11,848 to nine (9) Ward Coordinators for cash disbursements; 2) \$9,343 paid to six (6) individuals for polling/ mailing lists on September 11, 2010; 3) \$8,700 paid to one (1) Ward Coordinator to pay poll workers; 4) \$26,683.70 paid to six (6) Ward Coordinators for polling on September 14, 2010; and 5) \$37,274.60 re-deposited into the Committee's account as funds that were not expended.

The RAAD was unable to trace the remaining \$9,498.70 based on the additional documentation provided.

The RAAD submits that each of the twenty-two (22) cash payment in excess of \$50 violates D.C. Official Code Section 1-1163.08(a), and 3 DCMR Sections 3010.1 and 3010.3(b).

Therefore, RAAD will refer each excessive cash payment violation to OCF's General Counsel for the appropriate action.

#### **D. OTHER MATTERS NOTED**

##### **1. RECORDKEEPING-CONTRIBUTIONS**

###### **Summary**

The audit found that the Committee failed to provide documentation to substantiate and/or support 2,568 contributions totaling \$855,076.98

###### **Legal Standard**

3 DCMR Section 3400.2 provides that, "Each person who is required to file records, under Section 3400.1, shall obtain and preserve, from the date of registration, detailed records of all contributions and expenditures disclosed in reports and statements filed with the Director, including the following: (a) Check stubs; (b) Bank Statements; (c) Canceled checks; (d) Contributor cards and copies of donor checks; (e) Deposit slips; (f) Invoices; (g) Receipts; (h)

Contracts, (i) subcontracts; (j) Payroll records; (k) Tax records; (l) Lease Agreements; (m) Petty cash journals if applicable; (n) Ledgers; (o) Vouchers; and (p) Loan documents.”

### **Facts and Analysis**

The audit found that the Committee failed to provide documentation (e.g., copies of contributor checks, money orders, cashier checks, credit cards, and/or cash) to support 2,568 contributions, totaling \$855,076.98 which were reported by the Committee on its Reports of Receipts and Expenditures

### **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee provide adequate documentation to substantiate the 2,568 contributions that were reported on the Committee’s Reports of Receipts and Expenditures, and establish and adhere to internal control procedures regarding recordkeeping when accepting contributions.

On April 17, 2012, the Committee provided the requested supporting documentation, and a response indicating that it had established internal control procedures with regard to recordkeeping when accepting contributions, as recommended by the Audit Staff in the PAR.

## **2. RECORDKEEPING-PAYMENTS TO CONSULTANTS**

### **Summary**

The audit found a series of payments to six (6) individuals for “consulting services” for which the Committee failed to provide supporting documentation.

### **Legal Standard**

D.C. Official Code Section 1-1163.07(5)(B), provides that, “[t]he treasurer or candidate, shall obtain and preserve receipted bills and records as may be required by the Elections Board.”

3 DCMR Section 3400.2 provides that, “[e]ach required filer, under Section 3400.1 shall obtain and preserve, from the date of registration, detailed records of all contributions and expenditures disclosed in reports and statements filed with the Director, including the following: (a) Check stubs; (b) Bank statements; (c) Canceled checks; (d) Contributor cards and copies of donor checks; (e) Deposit slips; (f) Invoices; (g) Receipts; (h) Contracts; (i) Subcontracts; (j) Payroll records; (k) Tax records; (l) Lease agreements; (m) Petty cash journals; (n) Ledgers; and, (o) Vouchers; and, (p) Loan documents.”

## **Facts and Analysis**

The Committee made a series of payments to six (6) individuals for “consulting services,” but failed to provide the required contracts and/or statements of work outlining the actual services provided.

## **PAR Recommendation and Committee Response**

In the PAR, the RAAD recommended that the Committee provide proper documentation (i.e., contracts/statements of work) outlining, in detail, the type of consulting services provided.

On March 19, 2012, the Committee provided RAAD with a list of its employees/consultants, along with monthly payment amounts and bonus amounts attributed to each employee/consultant. On April 17, 2012, the Committee submitted an explanation for the monies paid including the amounts and dates paid. The explanation stated the duties assigned to each of the consultants. The explanations included payments for fundraising and developing budget projections for the campaign, coordinating campaign field operations, providing services as the deputy of operations, and payments for win bonuses. Additionally, the Committee provided “letters of agreement” for three of the six (6) individuals.

The RAAD, following the review of the documentation provided by the Committee, determined that some of the payments noted in the response were not reported by the Committee on its Reports of Receipts and Expenditures. Further, the payments reported by the Committee were not lump sum payments to the individuals as indicated on the documentation provided by the Committee. Several of the payments were split into individual amounts. For example, one (1) document indicated there was a “Win Bonus” of \$40,000 paid to one (1) consultant. However, on the Committee’s Reports of Receipts and Expenditures, the “Win Bonus” of \$40,000 was reported as four (4) payments of \$10,000, each paid within a three (3) month period. RAAD submits that the documents provided by the Committee do not represent and/or substantiate the actual payments to the consultants.

Therefore, RAAD must conclude that the Committee failed to establish or utilize sufficient internal control procedures and adequate recordkeeping procedures when making payments to individuals for consulting services pursuant to 3 DCMR Section 3400.2.

Further, the failure of the Committee to provide proper documentation which outlines the services to be provided by individuals hired for “consulting services,” and the amounts paid for such services, violates D.C. Official Code Section 1-1163.07(5)(A) and 3 DCMR Section 3400.2. Therefore, the RAAD will refer each matter to the OCF General Counsel for the appropriate action.

### **3. UNREPORTED WIRE TRANSFERS**

#### **Summary**

The audit found that the Committee received and disbursed funds in the same amount via wire transfer, and that the Committee did not report either the receipt or the disbursement of said funds.

#### **Facts and Analysis**

On April 4, 2010, the Committee received a wire transfer in the amount of \$25,000 from an unidentified source. On April 7, 2010, the Committee made a transfer in the same amount, \$25,000. Neither the receipt nor the disbursement of the \$25,000 was reported on the Committee's Reports of Receipts and Expenditures.

#### **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee provide an explanation and documentation to identify the source and use of the unreported \$25,000 wire transfers. It further recommended that the committee establish and adhere to internal control procedures when receiving and making payments by wire transfer.

On April 17, 2012, the Committee provided an explanation regarding the \$25,000 wire transfer. The Committee stated that on April 4, 2010 the \$25,000 wire transfer-in was from the Candidate's personal bank account to be used as collateral to cover purchases on credit. On April 7, 2010, the \$25,000 was debited back to the Candidate's bank account. The Committee provided copies of the Candidate's bank statements as supporting documentation.

### **4. IN-KIND EXPENDITURES NOT PROPERLY DOCUMENTED**

#### **Summary**

The Committee reported fifty-two (52) in-kind expenditures totaling \$55,529.49. Of these, seventeen (17) did not have documentation to substantiate the in-kind expenditure.

#### **Facts and Analysis**

The audit found that the Committee reported seventeen (17) in-kind expenditures for which it failed to provide complete substantiating documentation or any substantiating documentation.

## **PAR Recommendation and Committee Response**

In the PAR, RAAD recommended that the Committee provide documentation to substantiate the 17 in-kind expenditures totaling \$13,317.73.

On April 17, 2012, the Committee provided RAAD with documentation to substantiate nine (9) of the seventeen (17) in-kind contributions for which documentation was missing. However, the Committee did not provide adequate documentation for eight (8) in-kind expenditures.

The Audit Staff submits that the total amount of the eight (8) in-kind expenditures or \$3,153.66 fell below RAAD's threshold for referral for corrective action in view of the total expenditures in this audit.

## **5. REPORTING IRREGULARITIES – MONEY ORDERS**

### **Summary**

The audit found that there were reporting irregularities with respect to several contributions that the Committee received via money order.

### **Legal Standard**

D.C. Official Code Section 1-1163.09(c)(2) provides that, “[e]ach report under this section shall disclose: The full name and mailing address, including the occupation and the principal place of business, if any, of each person who has made one or more contributions to or for such committee or candidate, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, within the calendar year in an aggregate amount or value in excess of \$50 or more, together with the amount and date of the contributions[.]”

D.C. Official Code Section 1-1163.33(a)(1) provides that, “[n]o person shall make any contribution which, and no person shall receive any contribution from any person which, when aggregated with all other contributions received from that person relating to a campaign for nomination as a candidate or election to public office, including both the primary and the general election or special elections, exceeds: (1) In the case of a contribution in support of a candidate for Mayor or for the recall of the Mayor, \$2,000.”

D.C. Official Code Section 1-1163.33(e) provides that, “[n]o person shall make a contribution or cause a contribution to be made in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.”

## Facts and Analysis/PAR Recommendation and Committee Response

The Committee received forty-five (45) contributions totaling \$7,220.00 in the form of money orders. The following outlines the irregularities regarding these contributions, the recommendations set forth in the PAR, the Committee's responses thereto, and the outcomes:

- (1) Thirteen (13) money orders totaling \$1,430 were blank and made payable to Gray for Mayor; the donors were not listed; the money orders were in sequential order, and purchased from the same merchant (*Western Union*). Four (4) copies [of the money orders] were so faint that Audit Staff was unable to identify the date, amount or the contributor.

The Committee responded that it did not agree with RAAD's finding, arguing that the money orders were reported. The money orders were blank and unsigned, and RAAD was unable to verify that the documents were attributed to the individuals listed in the Committee's response to the PAR. The Committee failed to provide credible evidence (e.g., affidavits from the contributors to support their response.)

- (2) Eight (8) money orders totaling \$4,000 (\$500 each) were received from *Euclid Street Partners, LLC*, on August 8, 2010. This may constitute an excessive contribution in the amount of \$2,000.

The Committee responded that it agreed with RAAD's finding that the contribution was excessive, and stated that it would refund the excessive contribution. The Committee failed to provide a copy of a refund check to the donor as requested by RAAD.

- (3) Twenty-four (24) money orders totaling \$1,790 were not reported.

The Committee responded as follows: 1) that it could not confirm or deny RAAD's finding for four (4) of the twenty-four (24) money orders; 2) provided no documentation for eight (8) of the money orders; and 3) disagreed with RAAD's finding with respect to the remaining twelve (12) money orders.

In addition, RAAD recommended in the PAR that the Committee provide detailed explanations regarding its internal control procedures when accepting contributions in the form of money orders.

On April 17, 2012, the Committee provided a written explanation regarding its internal control procedures governing the acceptance of contributions in the form of money orders. RAAD determined that the Committee's procedures were within reasonable standards.

### **CASH CONTRIBUTIONS/CONTRIBUTOR CARDS**

D.C. Official Code § 1163.33 (c) provides "[i]n no case shall any person receive or make any contribution in legal tender in any amount of \$25 or more."



The audit found that there were three (3) contributions totaling \$190: 1) one (1) contribution of \$100 in cash; 2) one (1) contributor card indicating receipt of a \$50 cash contribution; and 3) one (1) contributor card indicating a cash contribution of \$40.

The Committee, in its response dated April 17, 2012, failed to address this issue as recommended in the PAR. The PAR recommended that the Committee provide an explanation regarding the three (3) aforementioned contributions. Therefore, RAAD will refer this matter to the OCF General Counsel for appropriate action.

### III. FINAL RECOMMENDATIONS

RAAD has determined that the reports, statements, and responses filed by the Committee are not in substantial compliance with D.C. Official Code Section 1-1163.09. Therefore, RAAD recommends the referral of certain matters identified herein to the OCF General Counsel for enforcement action, and that this report be adopted and issued as the "Audit Report" in this matter.

**In conclusion, the Audit Staff submits that the findings represented herein are the result of inadequate recordkeeping on the part of Committee officials.**

**The Audit Staff found no evidence that significant amounts of unreported receipts and expenditures were used to supplement the receipts and expenditures which were reported by the Committee.**

**THIS AUDIT IS BEING REFERRED TO THE OFFICE OF THE GENERAL COUNSEL FOR WHATEVER ACTION IS DEEMED APPROPRIATE TO COMPLETE ITS INVESTIGATION:**

January 29, 2016  
Date

Renee Coleman-Rollins  
Renee Coleman-Rollins  
Audit Manager