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P R O C E E D I N G S

(10:05 a.m.)

CHAIR BAUERLY: Good morning. The Federal Election Commission will come to order. Today, we are here on an audit hearing for the Los Angeles County Democratic Central Committee. We are going -- Commissioner Walther will join us as soon as he is available. We have scheduled this audit hearing for approximately an hour and we will provide an opportunity for counsel for the Committee, Mr. Kaufman, to provide information to the Commission and answer any questions.

At the outset, I do want to note that this is a fairly remarkable set of circumstances. I think it's clear the coincidence, alone, of sending the Committee the draft Final Audit Report on the same day that the treasurer was indicted was perhaps, I think, maybe a record for the Commission. I'm not sure that that's ever happened before and, hopefully, won't be a frequent occurrence. But I think it's fair to note that the report that was drafted by the Audit Division, obviously, was based on information that was provided by that individual. It reflects what had happened to that point thus far.

We have, as part of our procedure, the

1 opportunity for the Commission to request that the
2 Committee submit supplementary information after this
3 hearing. Our policy notes that the Commission
4 discourages voluminous submissions and we provide 10
5 days to do that or a deadline that the Commission
6 sets.

7 I would propose at the outset to my
8 colleagues that given the unusual nature of this
9 circumstance, that we ask the Committee and the
10 auditors to work together, to provide as much
11 information as available after this hearing and
12 provide at least 30 days and more, if necessary, to
13 ensure that the next version of the recommended report
14 that comes before the Commission can fully reflect the
15 reality, the changed reality, as much as it is able
16 to, given the circumstances of this matter.

17 So if there's no concerns about that, I
18 think we would leave the record open and ask -- you
19 know, while I'm not sure we're encouraging voluminous
20 submissions, I don't want you to be discouraged by
21 what the policy says in terms of providing us the
22 information that is necessary to make sure that this
23 accurately reflects the fairly strange nature of this
24 particular matter.

25 MR. KAUFMAN: Thank you.

1 CHAIR BAUERLY: So the Commissioners will
2 have an opportunity to pose questions after we hear
3 from counsel. Commissioners may also ask questions
4 designed to elicit clarification from the Office of
5 General Counsel or the Office of the Staff Director.
6 The General Counsel and the Staff Director will have
7 the opportunity to ask questions of the audited
8 Committee and then we will conclude with an
9 opportunity for closing remarks by Mr. Kaufman. So
10 with that, I will turn it over to you. Please
11 proceed.

12 MR. KAUFMAN: Thank you, Chair Bauerly and
13 Commissioners. Good morning. My name is Stephen
14 Kaufman of Kaufman Legal Group. I am counsel for the
15 Los Angeles County Democratic Central Committee. To
16 my left is Eric Bauman, who is the Chair of the
17 Committee. And we want to first thank you for the
18 opportunity to be heard on this matter and for
19 accommodating our schedules, so that we could be here
20 in person to testify to you today.

21 We are here to address new facts and
22 information that came to light since the issuance of
23 the draft audit report. And as the Chair mentioned,
24 by sheer coincidence, the draft audit report was
25 released on the very day that the Committee's former

1 Treasurer was indicted on charges of federal mail
2 fraud.

3 Those mail fraud charges arise from her
4 misappropriation of Committee funds from -- in
5 particular, the federal complaint that was filed
6 related to her misappropriation of funds from a state
7 account and the coverup that ensued from that, namely
8 the transferring of funds from multiple client
9 accounts and multiple business accounts to make up for
10 the shortfalls in the money that she absconded with
11 from that account.

12 In that complaint, Ms. Durkee, the former
13 Treasurer, according to a declaration submitted by the
14 FBI, admitted to misappropriating client funds for
15 years. And in the months that have followed, we have
16 become aware of substantial misappropriation, and I
17 can tell you that my firm has been involved in
18 representing numerous clients, who all have faced
19 similar circumstances, as a result of Ms. Durkee's
20 conduct.

21 Based on news reports and the lawsuits that
22 have been filed and the criminal complaint, it appears
23 that Ms. Durkee's actions affected over 400 committees
24 and that the extent of her misappropriation looks like
25 it well exceeds \$10 million and could be substantially

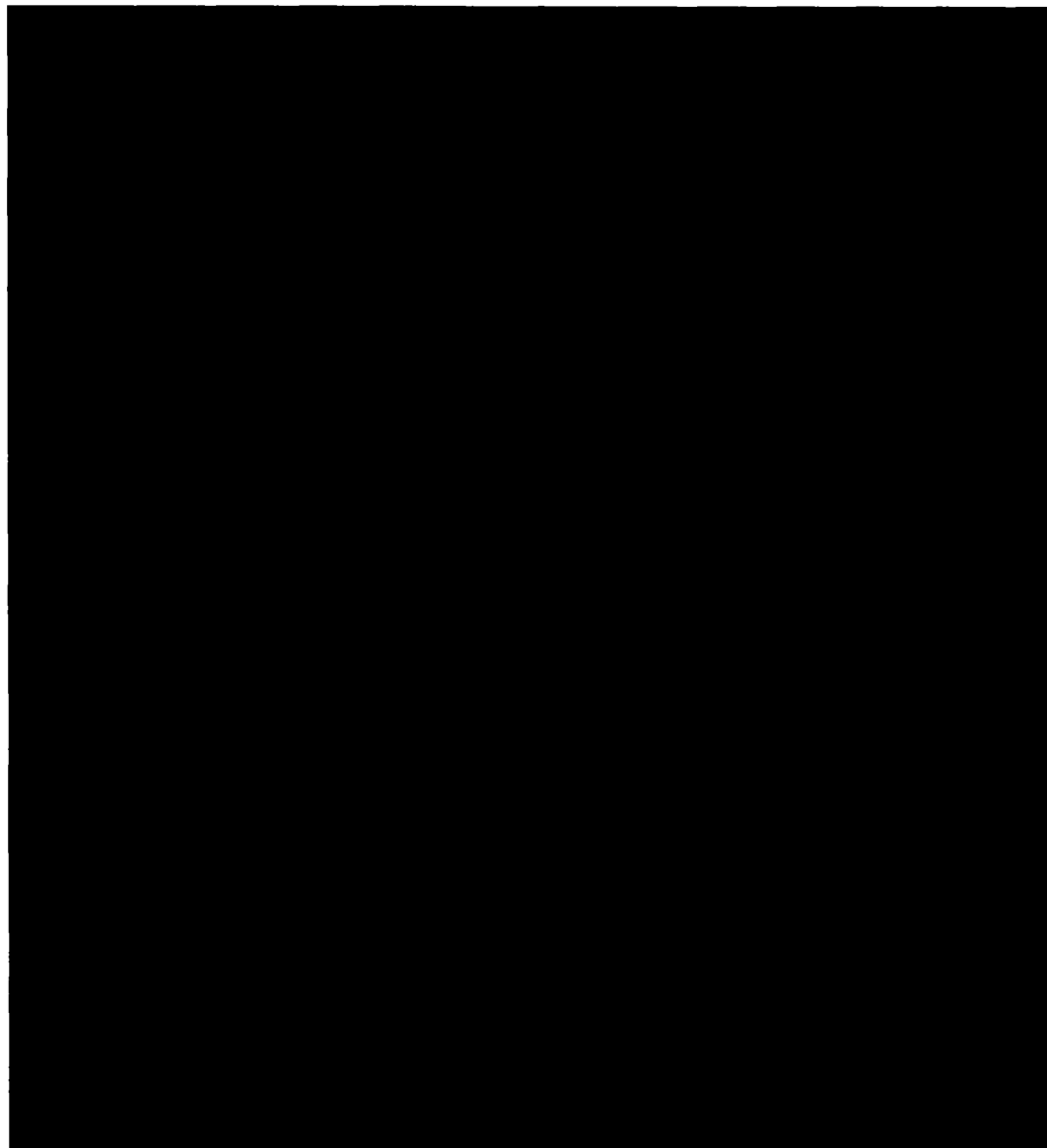
1 more than that based on the information that's been
2 provided by the various committees to date.

3 The extent of this misappropriation and the
4 complexity of the coverup that appears to have taken
5 place is unprecedented. And while this Commission and
6 certainly other regulatory agencies have seen
7 instances of embezzlement before by committee
8 treasurers, these circumstances appear to be
9 extraordinary and, as I said, unprecedented.

10 While we haven't had access to all records
11 for this Committee and other committees, we certainly,
12 as the months have gone by, have obtained access, to a
13 limited degree, to some bank statements and other
14 committee records.

15 And the lengths that Ms. Durkee went through
16 to cover up the activity is truly remarkable.
17 Falsified documents evidencing deposits of checks that
18 were never deposited, transfers among various bank
19 accounts, her own personal accounts, credit card
20 accounts that served as holding accounts for client
21 credit card transactions and just simply transactions
22 among and between the accounts of her various clients
23 evidence an attempt, you know, for somebody to be able
24 to cover expenses when they became due or to cover up
25 shortfalls in bank accounts when they became overdrawn.

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And one of the additional documents we brought today, in addition to the materials that we submitted with our October 6th letter to this Commission, is a complaint that was filed by Senator Dianne Feinstein and her committee against First California Bank and Kinde Durkee and Associates

1 alleging fraud and deceit in an attempt to recover the
2 millions of dollars that are missing from Senator
3 Feinstein's account. We have copies to distribute to
4 everybody.

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15 We presented with our letter a copy of a
16 complaint and interpleader, which was filed by the
17 Bank, in an attempt to deal with the competing claims
18 from Los Angeles County Democratic Central Committee
19 and other committees who have been defrauded in an
20 attempt to recover their money. The Bank initially
21 refused to provide any of the committees with their
22 funds or any information regarding their bank
23 accounts. They subsequently filed an interpleader
24 action with the court, depositing the funds that were
25 remaining with the court. That action is currently

1 pending.

2 It has bounced from judge to judge. And the
3 Feinstein campaign related the fraud case with the
4 interpleader case, so it's now been put into the
5 complex litigation courtroom in Los Angeles. There
6 are hundreds of committees that are still responding
7 to that suit and we suspect it will take quite a
8 while, months, probably years to sort out all of the
9 issues relating to the funds that remain in the
10 accounts and that the committees won't see the money
11 that is there for quite some time.

12 With respect to the L.A. County Democratic
13 Central Committee, we believe that they lost almost
14 \$200,000, given all of their accounts, which include
15 state accounts and federal accounts, based on the
16 dollar amounts stated by the Bank when they deposited
17 the funds. We believe that the federal account should
18 have had in the neighborhood of \$58,733, but that in
19 fact based on the numbers in the interpleader suit,
20 the Committee has \$25,160.

21 Even more significantly, the Committee's
22 Levin account, which we believe had almost \$75,000 in
23 it, has a total of \$867 remaining in the bank account,
24 which is not accessible to the Committee at this time
25 or any time in the near future.

1 In response to these reports, the Los
2 Angeles County Democratic Central Committee fired Ms.
3 Durkee -- should be a no-brainer on that one -- and
4 replaced her with a new treasurer and also replaced
5 the attorney who had been hired by the party Committee
6 to oversee the activities of Ms. Durkee's firm.

7 In addition to the fact that the Committee
8 hired a person who had been a professional treasurer
9 for years, representing numerous candidates and
10 committees, primarily based in southern California,
11 and relied on her experience and expertise, the
12 Committee had hired a law firm, whose job and function
13 it was to review the reports prepared by Ms. Durkee's
14 office and to review financial reports that were
15 generated by the treasurer on a regular basis, often
16 on a daily basis, during cycles in which there was any
17 significant activity, to provide the Committee with an
18 additional level of oversight and accountability in
19 reviewing the activities of their former treasurer.
20 That firm has also been replaced.

21 You are now looking at the Committee's new
22 counsel and we are actively working with the Committee
23 to access records, trying to evaluate what happened.
24 The records are still trickling in. Every once in a
25 while, we get a burst of information through the Bank

1 or through some other channel that provides us with a
2 little bit more than we knew yesterday.

3 But we still, you know, really don't know
4 and probably never will know the full extent of what
5 happened here, because while we might be able to see
6 what happened on this Committee's end, we don't know
7 what happened on the other end of a transaction. We
8 don't necessarily know the origin of money that was
9 coming into the account or where money was going to.
10 We can just see it going in and out. So I'm not sure
11 we'll ever have all of that information.

12 The Committee is considering its own action
13 versus the Bank for fraud. We are in discussion right
14 now about filing a separate suit. We have made our
15 claim in the interpleader lawsuit to assert our rights
16 to the funds that remain. And the Committee has
17 implemented additional internal procedures and
18 internal controls, you know, in an effort to ensure
19 that this type of activity cannot happen in the
20 future, despite the fact that it took what we believe
21 to be substantial efforts previously, even while Ms.
22 Durkee was treasurer, to implement controls over the
23 process.

24 With respect to the transactions that are
25 the subject of the draft audit report, as the audit

.1 report reflects, the audit was the first time that the
2 individual officers of the Committee were aware of
3 these transactions. If one looks at the audit report,
4 the reasons for the overstatements or understatements
5 in the cash appear to all result from transactions
6 that were neither known to the persons responsible at
7 the Committee, the officers and the Chair, nor were
8 they authorized.

9 None of the transactions that are
10 highlighted in the audit report were authorized by
11 individuals within the Committee. There was a process
12 in place for approving expenditures and no
13 expenditures were supposed to be made from the account
14 unless they were authorized by one of two
15 representatives of the Committee and none of the
16 transactions that are in the audit report were subject
17 to that authorization.

18 And as a result of the circumstances I just
19 detailed to you, we do believe that the transactions,
20 which are the subject of the audit report, were of the
21 nature of the transactions that are detailed in the
22 complaint filed by the U.S. Attorney's Office and
23 those that are detailed in the Feinstein complaint,
24 that these were unauthorized transactions and
25 additional transactions that were intended to cover up

1 the activity by the Committee's then-treasurer. And
2 we believe that the information that was provided to
3 support those transactions during the course of the
4 exit interview and the audit process, itself, which
5 was based on information provided by the now-indicted
6 treasurer, is not reflective of the actual nature of
7 these transactions.

8 So with that, the purpose for our being here
9 today is to ensure that the audit report reflects the
10 actual facts, as they occurred, to the best we can, or
11 at least reflects the facts and circumstances behind
12 Ms. Durkee's indictment, the fact that we believe that
13 these funds were misappropriated from the Committee's
14 account, that the transactions reflecting monies
15 coming into the account with no apparent explanation
16 were a result of a cover up by the treasurer, that the
17 Committee was unaware of these transactions as they
18 were occurring, and that they were completely
19 unauthorized transactions.

20 And, frankly, we think that those facts
21 serve as the basis for questioning whether these
22 transactions can even properly be characterized as
23 receipts and disbursements that weren't disclosed on
24 the Committee's report, since what we essentially have
25 here are unauthorized transactions that involve the

1 Committee's monies going out, coming in.

2 But at the end of the day, it's the
3 Committee's money that's simply moving around through
4 various accounts without any authorization or
5 knowledge of the Committee, itself. And we think that
6 all of this needs to be taken into account and that
7 this audit report needs to be looked at in a new
8 light, given all the facts and circumstances that have
9 unfolded since September 2nd.

10 I do want to add that there is one amount
11 that has been stated in the audit report, that we have
12 talked to the auditor about, that appears to be a
13 misstatement. There is a reference on pages 3 and 4
14 of the audit report, relating to finding number 1, and
15 it is a summary of the amounts that were overstated
16 and understated for this Committee, for the Federal
17 Committee. There are two accounts that are subject to
18 the audit report: the Levin account and the Federal
19 Committee. And in 2008, there's an amount stated that
20 reflects an understated cash on hand that's
21 understated by \$25,661.

22 That amount is incorrect. The amount of the
23 understatement is actually \$4,752, not \$25,661, and we
24 have had conversations with the auditor about that and
25 the auditor did indicate that that amount would be

1 corrected on the final version. But I wanted to make
2 the Commissioners aware of that fact. And so with
3 that, we are available for additional questions and
4 happy to discuss the facts and circumstances here in
5 greater detail, as you wish.

6 CHAIR BAUERLY: Thank you, Mr. Kaufman.
7 Questions from Commissioners? Commissioner Weintraub?

8 COMMISSIONER WEINTRAUB: Thank you, Madam
9 Chair. Mr. Kaufman, other than that correction that
10 you just made, the \$25,000 figure, which you say
11 should have been \$4,000, do you think that the overall
12 kind of ins and outs that are described in this
13 report, are there other inaccuracies? Do you guys
14 know, are you in a position to say?

15 MR. KAUFMAN: Well of course we don't know
16 anything for sure because the person who could
17 probably answer those questions isn't here and
18 probably isn't likely to be here anytime soon to
19 answer those questions.

20 COMMISSIONER WEINTRAUB: And might not
21 answer them anyway.

22 MR. KAUFMAN: And might not answer them
23 anyway. We certainly don't dispute that the
24 transactions that are laid out in the report are, you
25 know, transactions that appear to be unaccounted for.

1 And I would suggest there are, and I think that the
2 report only highlights, certain key transactions that
3 go into the ultimate conclusion about the
4 overstatements and understatements.

5 So I am sure that there are additional
6 transactions out there that have resulted from various
7 misconduct by the former treasurer, but I couldn't, we
8 don't have enough information and I couldn't point to
9 you today and say, on such and such date, this
10 happened.

11 But it is -- you know, it does seem apparent
12 to us, I mean, for example, there is a, in the
13 Federal, in finding number 1, the Federal account, you
14 know, there's a discussion about the \$7,700
15 transaction that took place in December of 2008 that
16 was characterized as an advance of credit card
17 contributions that apparently had gone into a
18 commingled, you know, credit card processing account
19 and that the treasurer indicated to the auditors that
20 the funds were being advanced and moved into the bank
21 account.

22 In looking at the bank statements, it's
23 apparent that the Committee was overdrawn at that
24 point, that there had been, there's something like 20
25 overdrafts in the month of December for this

1 Committee, I mean, just an inexcusable amount of
2 transactions and negligence in handling the account.
3 It was overdrawn and it's clear that the money is
4 moved into the account to help make up the shortfall,
5 to bring the Committee, you know, into balance.

6 MR. BAUMAN: The Bank never alerted us.

7 MR. KAUFMAN: Yeah, I mean, that's
8 information that we were never provided with from the
9 Bank and we don't know exactly where the money was
10 drawn from. We know what she said. So, you know, we
11 can certainly point to things and say this doesn't
12 look right, but I don't know that we'll ever be able
13 to say exactly what happened.

14 COMMISSIONER WEINTRAUB: I guess that's what
15 I'm trying to figure out, if as you take another month
16 or however long, you can sit down with our auditors
17 and try to sort through all this, are you going to be
18 in a position, do you think it's possible that you'll
19 ever be able to at least figure out money going in and
20 money coming out, you know, what was going on with
21 these accounts?

22 MR. KAUFMAN: Good question. I don't know.
23 We might be able to address some circumstances, but we
24 won't be able to address all circumstances. I mean,
25 there's a transaction here that's an alleged transfer

1 from the nonfederal committee to the Federal
2 Committee. We can certainly look at that transaction
3 because we have both sides of it. I think we know the
4 answer is it's not an administrative transfer that was
5 done in accordance with, you know, the process that is
6 set out for making those administrative transfers on a
7 periodic basis, but we can at least look at both sides
8 of that transaction.

9 COMMISSIONER WEINTRAUB: I'm just trying to
10 get my mind around the scope of the problem --

11 MR. KAUFMAN: Understood.

12 COMMISSIONER WEINTRAUB: -- as I'm sure you
13 are.

14 MR. KAUFMAN: Yeah and I think, you know, we
15 need to be clear. I mean, we didn't come here with
16 answers to every transaction that's listed today
17 because we don't have those answers. But we do think
18 that they need to be looked at in a different light
19 than is reflected in the draft audit report.

20 CHAIR BAUERLY: Commissioner McGahn?

21 COMMISSIONER MCGAHN: Thank you. So we're
22 clear on the timeline, the draft was written before
23 the embezzlement situation was known, right? It's
24 just the way our procedures work. So we all agree the
25 audit report doesn't reflect reality in that sense.

1 MR. HINTERMEISTER: Exactly.

2 COMMISSIONER MCGAHN: Okay, all right.

3 MR. HINTERMEISTER: It was given to the
4 Committee the same day that the --

5 COMMISSIONER MCGAHN: Right.

6 MR. HINTERMEISTER: -- person was indicted.

7 COMMISSIONER MCGAHN: A couple of questions.
8 The general theme, though, is what are we supposed to
9 do. And let me start by saying, there's probably no
10 worse feeling than being a party chair and trusting
11 people to watch the money and you realize the people
12 you've trusted have really let you down. And I view
13 you as the victim, not as the perpetrator of anything,
14 and the fact that the reports are messed up, no nice
15 way to say this, not your fault, I understand that,
16 and the person who caused it is not here and won't be
17 here.

18 But the problem we have is we do have an
19 audit ongoing and we've got to figure out first, I
20 guess, what the report is going to look like, and,
21 second, what kind of amendments you're going to
22 require and what those are going to look like. And
23 what I hear is you don't really have access to your
24 own records because, one, the person who has them is
25 under indictment, two, to the extent the Bank has

1 them, the Bank is essentially in an adverse posture
2 with you, at this point. There is the interpleader
3 suit, where the Bank has basically said, you guys all
4 figure it out. This is the money we have, good luck.

5 Now you have a gazillion, and that's a rough
6 approximation, you know, defendants in this suit,
7 right, where basically, you know, here's a pizza, you
8 have 40 people, you figure out who gets the eight
9 slices of pizza. And you're left completely on your
10 own with probably raw bank statements and transactions
11 that you can't really classify as one thing or
12 another. Before you knew there was embezzlement,
13 well, this looks like something to do with the credit
14 card account, so I guess this was an advance. It
15 makes no sense and now we know why it doesn't make any
16 sense.

17 COMMISSIONER MCGAHN: So even if we said you
18 need to do amendments, what are the descriptions going
19 to be, you know, embezzlement-related transactions?
20 You raised an interesting point, one I hadn't thought
21 of, and I'm not sure where we go with it. Maybe, you
22 could help me develop it.

23 We're auditing the L.A. County Democratic
24 Party. Is it an audit of the L.A. County Democratic
25 Party's bank account or is it an audit of the party

1 committee? Because if it's an audit of the bank
2 account, well, the bank account is a mess. There's
3 all kinds of money coming in and out. But if it's of
4 the party committee and the party didn't authorize
5 this kind of stuff, should you really have to report
6 it?

7 Part of me says, probably you do somehow
8 because what FECA did was centralize the accounts in
9 the one place with one treasurer. You had to file it
10 under oath, so there's one person on the hook to
11 address a very real concern back when FECA was passed,
12 slush funds and the like. But now, the converse is
13 when you put one person in charge and they steal the
14 money, what do you do?

15 So I'm not sure where we go from here
16 because we have an audit report of the Committee and
17 as a Commissioner, if you -- let me ask you this, if
18 you were me, what would you do? I mean, we've got to
19 account for this somehow and I think the audit report
20 -- whether there's a finding -- is a completely
21 different issue as to whether there's an enforcement
22 case, I mean, and I've already stated where I am on
23 all of that.

24 But we have an audit report and in the short
25 term, what are we going to do? I'm sure there's a

1 bunch of information you can give to the auditors and
2 they're going to work with you and I know without, you
3 know, getting into internal stuff, we're cognizant of
4 the issue. But you know, you have transactions,
5 there's no way you're going to know what they're for,
6 other than somebody stole the money. But how do we do
7 what we need to do here? How do we thread this
8 needle?

9 MR. KAUFMAN: Well, I do think that that one
10 of the fundamental issues, is, again, that the
11 Committee is required to report receipts and
12 disbursements. Now, you know, Section 434(b) lays out
13 a host of receipts that are to be disclosed by the
14 Committee and disbursements that are to be disclosed
15 by the Committee. And if you look at the categories,
16 the laundry list provided there --

17 COMMISSIONER MCGAHN: Stolen money is not on
18 the list.

19 MR. KAUFMAN: -- I don't see embezzlement
20 and coverup, you know, caught in there. And even if
21 you, you know, wanted to characterize them in some
22 other way, I mean, there's not -- there aren't a lot
23 of, you know, categories that this fits into. So you
24 know, I don't know where the responsibility of the
25 Committee falls on that.

1 I mean, certainly, the treasurer has
2 responsibility for the Committee, you know,
3 coextensive with the Committee and I, you know, think
4 the audit report, you know, needs to reflect kind of
5 the emotions and culpability of both parties to that,
6 being the Committee and the Committee's treasurer.
7 And I think where possible, if the audit report can
8 focus on the one and not the other, then that's where
9 I would direct things.

10 Clearly, she didn't fulfill her obligations
11 as a treasurer. But I don't think the same thing can
12 be said for the Committee, who had no knowledge of
13 these transactions, despite the fact that they had
14 processes and procedures in place and had hired a
15 professional treasurer to do it and which gave no
16 authorization to these transactions.

17 COMMISSIONER MCGAHN: Let me ask you a
18 little bit about your processes and procedures. You
19 hired someone who held themselves out to be a
20 professional treasurer, represented all kinds of other
21 committees and, you know, had done this for years.
22 You didn't try to do it yourself on the kitchen table.
23 You hired someone who was held out as a professional.

24 You mentioned you had a law firm reviewing
25 that work, okay. The problem is if the reports are

1 internally consistent and add up on their face, the
2 law firm is not going to pick up embezzlement unless
3 they actually do a bank rec once a month or so, which
4 is really, you know, in hindsight, would have been --
5 but even then, a clever -- if someone is going to
6 steal, they're going to steal, and that's the problem
7 you have, is the way they kind of cover their tracks.
8 It just creates a mess in the snow and you will never
9 figure it out. Was the law firm paid?

10 MR. BAUMAN: Yes.

11 MR. KAUFMAN: Yes.

12 COMMISSIONER MCGAHN: Any idea, and you
13 don't necessarily have to answer it, I don't want you
14 to guess, but how much you paid for compliance
15 services from this professional treasurer and this law
16 firm?

17 MR. BAUMAN: Do you want to address that?

18 COMMISSIONER MCGAHN: You don't have to
19 answer it today, but maybe if you could give it to us.
20 A not insignificant amount of money, I would say.

21 MR. BAUMAN: Including the audit or not
22 including the audit?

23 COMMISSIONER MCGAHN: Not including the
24 audit.

25 MR. BAUMAN: We were averaging anywhere from

1 three to five thousand dollars a month in legal fees
2 for oversight and for having our counsel respond to
3 specifics of how do you code a certain item, which
4 account do you come from, what allocation to use, and
5 it was averaging, we were probably spending \$65,000 to
6 \$70,000 a year just on that.

7 COMMISSIONER MCGAHN: Just on that, okay.
8 So that's a significant commitment to compliance.
9 Internally, what other sorts of procedures did you
10 have? You mentioned you needed authorization of at
11 least one or two people. Was that the chair or maybe
12 political director? Is that someone other than the
13 treasurer?

14 MR. KAUFMAN: Yeah. There were actually, I
15 guess, three people who were authorized: the chair,
16 the controller, and the executive director all had
17 authorization authority in terms of telling the
18 treasurer what she was authorized to pay.

19 COMMISSIONER MCGAHN: Okay.

20 MR. KAUFMAN: And payments were not supposed
21 to be made without that authorization.

22 COMMISSIONER MCGAHN: How was that
23 authorization conveyed? Signoff sheet or was it oral?
24 I'm just trying to get a sense of fleshing out --

25 MR. BAUMAN: Originally, it was a written

1 document that was faxed and then as we became -- we
2 found the 21st century, it became an e-mail
3 transmission.

4 COMMISSIONER MCGAHN: Okay. So it's a
5 written signoff process?

6 MR. BAUMAN: Correct.

7 COMMISSIONER MCGAHN: What other sorts of
8 internal procedures did you have to ensure the monies
9 that you raised to talk to voters is actually spent to
10 talk to voters?

11 MR. KAUFMAN: Well, again, let me address
12 this -- again, financial reports were provided on
13 almost a daily basis. Now of course when the person
14 providing the financial reports is --

15 COMMISSIONER MCGAHN: Tricking them up.

16 MR. KAUFMAN: -- doctoring them, then
17 they're not going to be of much use. But there was a
18 lot of financial oversight and financial reporting.
19 There were biannual audits that were conducted,
20 internal audits conducted by the organization. The
21 organization --

22 COMMISSIONER MCGAHN: But by whom?

23 MR. KAUFMAN: There was a committee of the
24 political committee, a volunteer committee, that was
25 set up to do an internal review as recently as a

1 couple of years ago. And it was confirmed during that
2 process that Ms. Durkee had a system in her office, in
3 which different people performed different functions,
4 in which one person was responsible for making
5 payments, another person was responsible for
6 overseeing the incoming funds, another person was
7 responsible for actually preparing the campaign
8 reports.

9 COMMISSIONER MCGAHN: You thought you had
10 segregation of tasks even within your professional
11 arm's-length treasurer, with a law firm looking over
12 that person's shoulder at the tune of --

13 MR. KAUFMAN: Correct.

14 COMMISSIONER MCGAHN: -- 60 to 70K a year
15 just for that?

16 MR. KAUFMAN: Correct.

17 COMMISSIONER MCGAHN: And a civilian board
18 of people twice a year taking a look?

19 MR. KAUFMAN: Correct.

20 COMMISSIONER MCGAHN: Okay.

21 MR. KAUFMAN: Now, what actually happened of
22 course we don't know. But I mean, I will tell you, in
23 looking at what went on here, I mean, it's a head-
24 scratcher because, you know, one's reaction to looking
25 at the information, you say, how can anybody who is

1 preparing the reports not know what's going on over
2 here.

3 But then, again, the extent to which this
4 treasurer went to cover her tracks is so
5 extraordinary, it's impossible to say who knew what
6 and depending on the internal division in the office,
7 you know, it's quite possible she could have
8 manipulated stuff, so that other ends of the office
9 weren't seeing it. I would find that hard to believe.
10 But even with the division of tasks, you know,
11 obviously, it didn't stop this from taking place, even
12 with the division of tasks within her office.

13 MR. BAUMAN: If I may add, as somebody who
14 has managed organizations with as many as 2,200
15 employees, I understand the basic separation of
16 accounting and bookkeeping functions that are
17 necessary to ensure financial safety and security for
18 an organization. So the fact that the traditional
19 separation of payables and receivables, having an
20 account manager, having a separate compliance and
21 reporting person, those things made me comfortable in
22 my capacity as chairman to feel that as a fiduciary
23 for Democrats in Los Angeles, I was doing my job.

24 In fact, I think those very separations
25 conspired to enable much of this to occur because

1 these people were at least theoretically firewalled
2 from each other and something that happened here
3 clearly, they could have had no idea what was going on
4 here.

5 What confirms that for me in retrospect is
6 that the FBI didn't come in and arrest all the
7 employees. If the FBI had believed that there was a
8 conspiracy internally, it would not only have been Ms.
9 Durkee, who was carted off in handcuffs. And so that
10 leads me to, that reinforces my belief that the normal
11 separation of powers or separation of activities
12 conspired to enable this.

13 MR. KAUFMAN: I should also add that the
14 Committee has had at least two prior audits done at
15 the state level by the Franchise Tax Board and had
16 clean audits with no findings on both occasions.

17 COMMISSIONER MCGAHN: The reason why I asked
18 about the controls is the Commission, a couple of
19 years ago, well, more than a couple of years, did a
20 policy about internal controls and, at the time, it
21 was a positive. And what's frustrating is you look at
22 things in the policy, that you need two signatures on
23 checks, well, you learn the hard way that the bank
24 doesn't care --

25 MR. KAUFMAN: Don't care.

1 COMMISSIONER MCGAHN: -- if Mickey Mouse and
2 Donald Duck sign the check, because they're going to
3 cash it and take the hit on the backside if it doesn't
4 clear. They put it on the consumer to police whether
5 the check should be right. It's a heartbreaking thing
6 when it happens. You realize, gee, what was the bank
7 doing. Well, they were just moving paper. And what
8 you say rings true.

9 You, also, have some electronic problems
10 here, right. I see there's a debit for 50 grand and
11 \$10, at one point, the credit card holding account,
12 all the multiple signatures on a checkbook aren't
13 going to fix that in any way, shape, or form. And
14 something we haven't done is figure out how to help
15 people on that front. To me, if someone is going to
16 steal, they're going to steal.

17 The question is how fast you catch them,
18 just the way it's set up. And even with the, even
19 with all the controls you had, you still had someone
20 steal. And what's even more heartbreaking is the fact
21 that things were siloed on that end, probably enabled
22 it and allowed for malfeasance to continue longer.

23 So with the electronic stuff, can you talk
24 about that a little bit, maybe flesh that out,
25 because, to me, the policy that we have doesn't really

1 speak to it and it speaks to me the new vulnerability
2 of campaigns is electronic transfers. You know, when
3 you do a media buy, you send it to the station. You
4 know, you probably electronically transfer money to
5 your mail account, right, when you do your mail.

6 And credit card donations, that's a massive
7 floating account, that if one person has many clients
8 and float it in the same account, becomes a personal
9 ATM machine, which seems to be part of what happened
10 here. Would you flesh that out for us a little bit,
11 the electronic stuff?

12 MR. KAUFMAN: Yeah and that's correct. I
13 mean, we've entered a different age for dealing with
14 these transactions. Again, committees like this, you
15 know, the best they can do is set up a system of
16 accountability, like requiring authorizations before
17 those transactions are made and providing those
18 authorizations to the bank, you know, is certainly one
19 way of ensuring that those transactions are accounted
20 for. But there is a big gap.

21 And I think one of the other issues here is
22 her system of depositing electronically. You know,
23 it's gotten to the point where you don't even need to,
24 and I can tell you, I mean, our office experiences the
25 same thing. You don't even have to go to a bank

1 anymore and present them with checks, you know, to be
2 deposited into a bank account. It can all be done
3 remotely. And if one wants to commit embezzlement,
4 one can simply deposit those checks into another bank
5 account that's linked to a remote deposit terminal.

6 Now again, as you said, if somebody wants to
7 embezzle, they're going to be able to do it. The
8 question is how quickly can you catch it, you know.
9 In a well set-up situation, it should be caught on the
10 monthly bank reconciliation. When it happens at the
11 very top, as it did here, this wasn't just a rogue
12 employee, you know, who was doing this. This is the
13 person at the top, who has access to everything and
14 can manipulate everything. So when it happens at the
15 top, you know, when is someone going to catch them.

16 But with the ability to do things remotely
17 and electronically these days, it does add to the
18 burden on committees like this to implement controls
19 and almost have to be involved in the day-to-day
20 functions that is the very reason why you hire a
21 professional treasurer in the first place. And part
22 of the basis for hiring a professional treasurer, who
23 has a reputation, is to be able to rely on someone who
24 is professionally trained in this, so that you can
25 hand some of those functions to those people.

1 And if you have assurance that the proper
2 division of labor and accountability is being done on
3 that end, then it should relieve the Committee of some
4 of those tasks in having to do them themselves. But
5 it's all part of the internal controls.

6 I mean, I think one of the things that the
7 internal controls don't speak to, it kind of addresses
8 a situation where a committee has a staff that
9 undertakes these functions. But the internal control
10 policy laid out by the Commission, I think, doesn't
11 essentially recognize that what the committee is doing
12 by hiring a professional treasurer is hiring on to
13 those internal controls.

14 MR. BAUMAN: One thing I'd just like to add,
15 you may or may not be aware, Durkee had a simultaneous
16 business called ETRIBUTE, which was a credit card
17 processing firm. And most of the clients, LACDP
18 included, used that service, because it was a little
19 bit cheaper ultimately than a traditional processing
20 service and most importantly for us, and part of the
21 reason we did it, it was fully integrated
22 theoretically into our reporting and depositing
23 system.

24 And we were made to understand that it
25 actually increased the rapidity with which the funds

1 internal records developed with information that Ms.
2 Durkee was providing, so that those two records were
3 matched? Could you explain a little bit further how,
4 to the extent you know at this point, how those were
5 being reconciled?

6 MR. BAUMAN: So on a daily basis, and I
7 admit to over neurosis on this, on a daily basis, I
8 received a balance sheet, an income and expense
9 statement, and a profit and loss summary year to date.
10 I received a reconciliation report once a month and I
11 received a donor report, federal, well, a donor report
12 for each of my committees once a month.

13 Those reports all came from -- Durkee had
14 proprietary software with which she kept data and spit
15 out reports and I believe it was hooked up to
16 QuickBooks or some equivalent system that produced
17 these daily reports that I received. And everyday at
18 approximately 5:00 or 5:30, my account representative
19 would send me those reports.

20 COMMISSIONER PETERSEN: Okay.

21 MR. KAUFMAN: But at the same time, the
22 Committee itself was maintaining records of receipts
23 from donors --

24 MR. BAUMAN: Correct.

25 MR. KAUFMAN: -- and reviewing those

1 reports. So they had kind of a running balance of
2 what they thought was coming into the account based on
3 stuff that they were tracking on their end and
4 comparing with these reports that were being generated
5 by the treasurer.

6 COMMISSIONER PETERSEN: Okay. And just to
7 the extent you know, how was -- and you mentioned how
8 this was, I mean, probably the most extensive and
9 certainly complex embezzlement scheme that we know of
10 that's happened to date. How were those, again, to
11 the extent you know, how were those numbers being
12 manufactured to ensure that those were matching
13 internal records?

14 MR. KAUFMAN: Well, for example, you know,
15 again, from what we know and what we can piece
16 together and what we've seen with other committees,
17 you know, a contribution that was received by a credit
18 card, getting back to Commissioner McGahn's
19 statements, and went into this commingled account were
20 being included on these financial reports, but may
21 never have found their way into the Committee's bank
22 accounts.

23 MR. BAUMAN: Same with checks that were
24 received.

25 MR. KAUFMAN: Yeah, and checks that had been

1 received and such. So they may have been received,
2 put on a report as received, put on the financial
3 records as in the bank, but never found their way. I
4 mean, we've seen just extraordinary things in some of
5 the transactions for these various committees. I saw
6 one committee that had, not this committee, but
7 another committee, where a \$150,000 check was written
8 from a committee's related account into another
9 related committee account.

10 We even have a copy of the check that was
11 provided to us a year ago, before this even came to
12 light, that reflects the deposit of that check in the
13 Committee's bank account. And yet, when all of this
14 came to light, that check was never deposited in the
15 Committee's bank account, despite the fact that we
16 have some kind of doctored document that shows a
17 deposit. It has on the back a deposit stamp and a
18 signature and everything else, was never deposited
19 into that bank account.

20 So you know, this was all numbers and the
21 fact that it may not have found its way into the bank
22 account was not necessarily reflected in the financial
23 reports that were provided.

24 COMMISSIONER PETERSEN: Okay. Also, to pick
25 up on, well, one of the last things that you had

1 mentioned in your statement and also Commissioner
2 McGahn picked up on this, you know, the question of
3 where do we go now. You raised the issue about
4 whether or not unauthorized transactions, in this case
5 which were embezzled, regarding embezzled monies,
6 whether or not those should be considered receipts for
7 disclosures that should be properly reported.

8 The concern that arises in my head about
9 that approach is if we adopted that approach, because
10 there's a universe of unauthorized transactions and
11 potentially embezzled funds would be one of those.
12 And if we adopted a rule that said unauthorized
13 transactions don't have to be reported, then we could
14 end up with what committees are reporting on their
15 disclosures as being cash on hand not matching up with
16 what bank records might show.

17 And so, at least in my own mind, I'm
18 wondering about the practicality of that versus, I
19 think the larger point is that, and maybe this is
20 really what you're driving at, in this sort of a case,
21 where you have a remarkable set of facts where a very
22 extensive embezzlement operation was going on, if that
23 is, if it's that sort of set of circumstances, which
24 leads to reports not being accurate, should the
25 Commission be taking that into account, in terms of

1 determining what, if any, action we should be taking
2 on the back end.

3 This is an issue that we've dealt with
4 periodically with embezzlement, small and large scale,
5 what do you do with the committee. My approach is
6 generally to take a lighter touch with committees who
7 have been subject to embezzlements. As Commissioner
8 McGahn mentioned, I think that, in this case, it's
9 committees like you that are the victims and even if
10 there are technical violations of the law, I think
11 that in terms of how we exercise our enforcement
12 jurisdiction, I think that we need to really take that
13 into account.

14 But just to dive back into this legal issue,
15 is it your point that we shouldn't -- how hard are you
16 recommending that the Commission not consider these
17 sorts of unauthorized transactions to be receipts or
18 disbursements that don't need to be disclosed versus
19 it's the larger point that the Commission really needs
20 to make sure that we take a fully fleshed-out, three-
21 dimensional realistic view of the facts here before
22 making any decisions about how we want to treat this
23 in the audit context and in the enforcement context.

24 MR. KAUFMAN: I realize that what I'm saying
25 about classifying these or not classifying these as

1 receipts and disbursements is a rather, you know,
2 extraordinary approach. I mean, you have to have
3 accountability. But I do think that under these
4 circumstances, under these narrow circumstances, you
5 know, it's something that you should look hard and
6 fast at.

7 But I do think that the larger issue that
8 you raise is most pertinent here and that is how do
9 you treat this Committee, in light of the fact that it
10 has been victimized and in light of the fact that -- I
11 mean, ultimately, you know, it's less important, I
12 think, to the public to be able to identify kind of
13 how this money was moving around than to ensure that,
14 you know, ultimately, the public has a view of what's,
15 you know, what's in the committee.

16 What money does the committee have now and,
17 you know, maybe the difference between where it
18 thought it was and where it is now, and less about all
19 the various transactions that may have occurred with
20 money in, money out, that -- I mean, at the end of the
21 day, it's nice to be able to figure it out, but what
22 advantage do we gain from the disclosure of all of
23 that back and forth, when in fact you know, the
24 transactions aren't really signifying any activity on
25 behalf of the Committee.

1 I mean, it's nice that the \$35,000 payment
2 went to the Pasadena United Democratic headquarters,
3 but it's not because it was a contribution to that
4 committee or this Committee was trying to, you know,
5 give money to that committee. It's because Ms. Durkee
6 had a shortfall on that end and, therefore, was moving
7 money from one pot to another. So the mere fact that
8 the Committee may not have disclosed that transaction,
9 I'm not sure what information that's giving the
10 public, that's helping the public assess the political
11 activities of either of those committees.

12 COMMISSIONER PETERSEN: Thank you.

13 CHAIR BAUERLY: Commissioner Weintraub?

14 COMMISSIONER WEINTRAUB: Thank you, Madam
15 Chair. Nobody is disputing that these were
16 extraordinary circumstances, and I think you're
17 hearing sort of a consistent theme of interests on the
18 Commissioners' parts about internal controls that you
19 had in place. So I think I would find it helpful and
20 perhaps some of my colleagues would, as well, if, in
21 the course of the next few weeks, you could pull
22 together for us a detailed description of all of the
23 internal controls that you had in place or thought you
24 had in place. I think that would be helpful to us. I
25 know it would be helpful to me.

1 I mean, I think on the general question of
2 whether you should disclose the transactions, assuming
3 you could figure them out, which, I think, you know,
4 right now is an open question. It sounds like, you
5 know, whether anybody will ever figure out exactly
6 where all this money moved to at any one time.

7 I mean, I do think that if I were a donor to
8 this Committee, I would want to know what happened to
9 my money. I do think there's a public interest in, to
10 the extent possible, trying to figure out what the
11 heck happened and, you know, whether -- like I said,
12 whether that can be done. It might take a forensic
13 accountant to do it, but I think, you know, I would
14 personally be supportive of trying to get as much
15 information on the public record as is possible about
16 what actually happened here.

17 And as my colleagues have noted, it's an
18 entirely separate question whether, you know, you
19 should be held accountable at some point, in some way,
20 for misstatements that may have occurred as a result
21 of all that. You know, that's a whole separate
22 question. We're not there. We're trying to figure
23 out what to do with this audit.

24 And you may or may not know the answer to
25 these and maybe you could fold them into this

1 description of the internal controls, but did you have
2 a system in place that required two signatures for the
3 checks and was the Bank following that procedure? Or
4 was the second signature forged? Or what was going on
5 with that?

6 MR. BAUMAN: The Bank has a policy of not
7 having a double signature policy.

8 COMMISSIONER WEINTRAUB: That's unfortunate.

9 MR. KAUFMAN: That's the answer to your
10 question. And with respect to your other comments, I
11 do want to be clear about one thing. In response to
12 the audit and at the request of the auditors, the
13 Committee did file amended reports that did reflect --

14 COMMISSIONER WEINTRAUB: I appreciate that.

15 MR. KAUFMAN: -- the findings as stated in
16 the audit report. There has been some disclosure of
17 payments, accurate or otherwise. You know, with
18 respect to ultimately being able to report those
19 transactions accurately, we'd like to be in a position
20 to do that. The dollars involved in trying to get to
21 that point might be absolutely extraordinary. I mean,
22 I suspect that, you know -- -

23 COMMISSIONER WEINTRAUB: And I hear that,
24 too.

25 MR. KAUFMAN: -- we're never going to be

1 she was falsifying bank statements. That's not
2 accurate. She was falsifying financial records and,
3 in some instances, apparently, falsifying
4 transactions. With respect to the bank statements,
5 no, at the time, the bank statements were not going to
6 persons other than her and people in her office. So
7 that's where part of the disconnect lies. The
8 reconciliations were going to the client, in this
9 case, the Committee, but the bank statements were not.

10 COMMISSIONER WEINTRAUB: But if, for
11 example, your lawyers had gotten copies directly from
12 the Bank of the bank statements and it used those to
13 try and reconcile the records they were getting from
14 her, presumably, you would have caught on to this a
15 lot sooner.

16 MR. BAUMAN: I want to say this
17 respectfully, but for a committee that deals in the
18 level of dollars that we do, we spent over, on an
19 average year, \$100,000 between treasury services and
20 legal oversight, in an attempt to comply. If you look
21 at what the volume is, what the balances in our
22 Committee were, we were expending an extraordinary
23 amount of money in our best effort to comply. The
24 cost of this audit to us to date is over \$100,000.

25 This is not a committee that sits with a

1 million dollars in its account, nor is it a committee
2 or group of officers who, in any way, was lax, because
3 I personally take my reputation to be the one thing I
4 have in this game. Hence, the reason that we have
5 what we believed was such sophisticated management of
6 our money, of our reporting, and of our oversight,
7 because, as you know, in this trade, what do you have
8 other than your reputation. So anyway, I'll just
9 leave it at that.

10 COMMISSIONER WEINTRAUB: And I don't mean to
11 impugn anybody's reputation who is sitting here today.

12 MR. BAUMAN: And I did not take it that way.

13 COMMISSIONER WEINTRAUB: We want to talk
14 about people who aren't sitting at the table. But you
15 know, the people who are sitting here today, I
16 completely accept, you know, acted in good faith and
17 were trying their best. And, Mr. Kaufman, you
18 probably came in long after all this happened. But
19 I'm trying to think -- this has been a big problem for
20 a lot of committees. Obviously, you are not the only
21 one that has had this problem.

22 This particular individual victimized a lot
23 of committees and we've had other individuals who have
24 victimized other committees, often individuals that
25 were well known to the principals and the managers of

1 political committees and obviously trusted, you know.
2 I mean, we've had stories of people who said, you
3 know, this guy was my good friend and look what he did
4 to me. You know, it's a real sense of betrayal.

5 So I don't, you know, ultimately, you've got
6 to trust somebody, right? I mean, you can't, you can
7 put in a lot of controls in place, but ultimately, you
8 have to trust people to do the right thing and
9 sometimes that trust is not well founded, as we all
10 find out to our misfortune.

11 But I'm trying to figure out, you know, what
12 can we tell, how can we help committees to avoid these
13 kinds of problems. One aspect of the safe harbor, and
14 it's just a safe harbor, it's not a requirement, that
15 the Commission offered in 2007 was that bank
16 statements be reviewed for unauthorized transactions
17 and reconciled to the accounting records each month.
18 Further, bank records are reconciled to disclosure
19 reports prior to filing, and the reconciliations are
20 done by someone other than a check signer or an
21 individual responsible for handling the committee's
22 accounting.

23 Now, we didn't get, you know, into the
24 nitty-gritty, this is a fairly broad set of principles
25 that we put out there. But you know, it seems to me

1 that one thing that really would have been helpful to
2 you and, possibly, we should be more aggressively
3 recommending it to other committees going forward, is
4 to make sure somebody else is getting it straight from
5 the bank and is taking those, somebody who is outside
6 of the ambit of the person who is otherwise doing your
7 bookkeeping and writing the checks, and that they're
8 doing the cross-checks.

9 Because, you know, you just could have saved
10 yourself a lot of heartache that way and I think a lot
11 of committees that -- you know, in retrospect, you
12 know, that would have been better, right, if we had
13 caught this earlier. Nobody is happy with where we
14 are today.

15 MR. KAUFMAN: And that's well-founded advice
16 and, in retrospect, one wishes that were the case.
17 But again, in doing their own internal review and in
18 hiring this professional and in having the
19 conversation with the professional, they were told
20 that the functions for reviewing and reconciliation
21 and checkwriting were being placed in different people
22 within the office.

23 MR. BAUMAN: And for perspective, she had a
24 staff of 30 people. So I think that's important to
25 note. It made it very believable when you went into

1 an office that was a giant open office with cubicles
2 all around and there were clearly delineated different
3 people doing different things. It wasn't like a one-
4 person shop. So you had a bookkeeper doing payables,
5 receivables, writing the checks, doing the reports. I
6 mean, it clearly was delineated duties.

7 COMMISSIONER WEINTRAUB: And do you think
8 that there were different people who were doing these
9 different functions?

10 MR. BAUMAN: There were. That, I know,
11 because I had to answer questions to different people
12 depending on what was going on or my staff did. So we
13 knew that it was very different people responsible for
14 different parts.

15 COMMISSIONER WEINTRAUB: So how did the
16 other people in this organization -- I guess we're all
17 still trying to figure out how this all happened.

18 MR. KAUFMAN: Yeah. I mean, as to your
19 ultimate question, you know, when that bank statement
20 came in, who was reviewing -- you know, can we be
21 sure, as we sit here today, that, you know, there was
22 some delineation, we don't know. But I mean, at least
23 with respect to the appearance of different people
24 performing different tasks, I mean, clearly, there
25 were different people preparing the reports, from

1 people dealing on the expenditure side, from people
2 dealing with the contributions coming in, because they
3 were dealing with different people for different
4 functions.

5 So there was no reason for them to question
6 the fact that there was a third person, you know,
7 reviewing the bank statements. I can assure you that
8 now the Committee is receiving its bank statements.

9 COMMISSIONER WEINTRAUB: So we just -- I
10 mean, do we still not know -- you know, was she
11 pulling the wool over the other people's eyes in her
12 organization or was she like stealing the paperwork
13 off their desk, we just don't know?

14 MR. KAUFMAN: We really don't. I mean, it's
15 --

16 MR. BAUMAN: And those people have all gone
17 underground, to be quite honest. You cannot find
18 them. One FBI agent called me, asked me if I knew the
19 home address of one of the employees. Coincidentally,
20 I did, because it was my account manager, but
21 literally, they all went underground because they're
22 trying to avoid --

23 COMMISSIONER WEINTRAUB: But don't get me
24 wrong. I mean, I'm not trying to lay fault at your
25 door. I mean, this was quite an enterprise and many,

1 many people were taken in by it.

2 CHAIR BAUERLY: Just to follow up a little
3 bit on what Commissioner Weintraub said, I think that,
4 and fortunately, we're all learning some lessons from
5 this case. And I think as we learn more and have some
6 understanding of to what extent we will, it might be
7 useful for the Commission to take a look at that safe
8 harbor and really see whether there are additional
9 things to put in or to make clearer. The safe harbor,
10 I don't know, it wasn't necessarily written with the
11 idea of using a vendor, as was what happened in this
12 case.

13 So it might be, the fact that there were two
14 people inside the vendor looking at bank recs and
15 doing the bank reconciliation, it turns out doesn't
16 help you when there's a massive fraud going on. If
17 it's in your own offices, you know, if these were your
18 staff, you would obviously have had a much better
19 opportunity to understand what was going on.

20 So I think that, I agree with Commissioner
21 Weintraub, this is, when someone is as determined as
22 she was to steal people's money, it seems very
23 difficult to see how even the safe harbor could. But
24 I, also, think that it's important for us to think
25 about the vendor context, because, as you point out,

1 she told you she had these things in place, as I
2 understand it, and, obviously, had been working with a
3 number of other committees and I'm guessing you relied
4 on that, as well.

5 MR. BAUMAN: Correct, and the range of
6 committees that she represented ranged from, you know,
7 Senator Dianne Feinstein, to Democratic clubs who, you
8 know, have \$500 a year in total revenues. And
9 additionally victimized in this were several dozen
10 small nonprofits for whom she provided business
11 management services. So this has such a broad sweep
12 and such an effect.

13 And, you know, Commissioner Weintraub said
14 that she wasn't trying to lay blame at me, but the
15 reality is, I'm the chair of the party. I'm
16 responsible for what it does and doesn't do. And I
17 hold myself out and believe that the operation of the
18 organization I run is one of the best in the country,
19 if not the best in the country. So I can't tell you
20 the level that this discourages my ego to be in this
21 situation. And I say that, you know, not in humor,
22 even though I think it's humorous.

23 This is very important to me and I think the
24 public has a right to know what's going on in campaign
25 finance. I happen to believe in disclosure for the

1 simple reason that people question what is going on in
2 their politics and their government. I don't know --
3 ultimately, my lawyer and the Commission and the
4 auditors will have to figure out how we report this,
5 but I know, to be sure, that this is an
6 extraordinarily costly venture and we will never be
7 able to put back what is gone.

8 And, you know, you're triple-victimized.
9 And I'm not, I mean, I have to live with that. I have
10 to figure out how to get past that and I think that
11 there are many hundreds of other individuals and
12 organizations and candidates who will have to figure
13 out how to do the same thing. And quite frankly, I
14 had a very pleasant trip to Washington D.C. to meet
15 with you all, but I would just have been happy to be
16 in Los Angeles where it's warmer.

17 CHAIR BAUERLY: We're sorry about the
18 weather. We cannot actually do anything about that.

19 MR. BAUMAN: No snow, though. I was hoping
20 for one day of snow.

21 CHAIR BAUERLY: Other further questions from
22 Commissioners? Commissioner McGahn?

23 COMMISSIONER MCGAHN: Thank you. I
24 certainly agree the L.A. County Democratic Party has a
25 very good reputation of being a very efficient and

1 well run political operation. And, again, I just --
2 it's horrible what's happened to you and I can't
3 express that in any stronger terms.

4 If you do a monthly bank rec and someone
5 else gets the bank statement, generally, that will
6 catch a lot of embezzlement. But in your case, I'm
7 not even sure that would have caught it because you
8 are a local party, you have your hard account, you
9 probably have a nonfederal account. You may have
10 multiple nonfederal accounts because of your big donor
11 thing in California, right?

12 You have that weird thing where you clip
13 some money, right, that trick. And then, you have a
14 Levin account and you have your overhead ratio. So
15 you're moving money to make up your overhead ratio all
16 the time. You may do a fundraiser that may raise
17 money for all three accounts. You have to figure how
18 to pay for that. Somebody has to be able to pull the
19 trigger and move that money. Otherwise, well, then
20 there's going to be a finding that you didn't move the
21 money within 60 days, plus or minus 10 and all of
22 that.

23 So it's not as simple as you get one bank
24 statement and you look at one FEC report, yes, that
25 matches. Even to do the bank rec is a whole other

1 level of cost, simply because you guys play in
2 federal, state, and local elections, and you're
3 subject to FEC, FCCP, IRS, local tax. So I'm just
4 throwing it out there, that if you have any ideas in
5 your submission, you know, or maybe just to help the
6 discussion for longer term, because I think we're
7 transitioning to how we fix the problem in the future
8 now, how to do this.

9 I mean, a bank rec helps, but, you know,
10 there was a national party that was embezzled because
11 they had a rogue finance field person set up a ghost
12 account, solicited money, put it in the ghost account,
13 and one of those big donors called the national party
14 to complain why didn't I get a thank you note.

15 The national party said, what are you
16 talking about, and like you, they kept records of
17 their donors and they were able to catch the
18 embezzlement. It wasn't necessarily embezzlement, it
19 was somebody setting up a shell account and then they
20 caught the person because, well, the donor didn't get
21 a thank you. That's sort of the more traditional
22 stealing.

23 This is an inside job. And it's really
24 tough because you have so many multiple accounts and
25 you have a federal law that says you have to have one

1 person in charge of all that to sign one report under
2 oath. And when that person is the bad apple, you're
3 stuck.

4 So now that we're stuck, now that we're all
5 in this together, when you're a victim of theft and
6 now you have to report all of this stuff, you're sort
7 of driving around in the mud. Now you have to back up
8 the car until you find some dry land, where you know
9 the numbers balance. I'm not sure you can do that
10 because, like I said at the beginning, you don't
11 really have the bank on your side.

12 The person with the records is, well,
13 indicted. Everybody else now we know has gone
14 underground and scattered because they're probably
15 lawyering up, as well. You have the FBI probably
16 asking a lot of questions, trying to do a forensic, to
17 try to figure out the criminal case. You don't want
18 to get in the way of that. And then, you have, you
19 know, the FEC coming in with an audit.

20 Can we find dry land on this and, if not, is
21 there a place where we can sort of start, do a reset,
22 and figure out a point for going forward reporting
23 that it can add it up, so there's sort of one report
24 that sort of says, embezzlement problem, cash on hand
25 doesn't match the report, and we sort of do a reboot

1 in going forward? Because, if you can't find dry
2 land, that's the only option.

3 Can you maybe discuss that approach or how
4 to get this going forward? Because you, also, need
5 something to tell the public and your donors, hey,
6 credibility has been restored, our house is in order
7 and we're so, it touches on a lot of levels. But
8 maybe again, could you help us figure out how to do
9 this in a way that doesn't cost you another hundred
10 grand when you're a local party that maybe does, what,
11 700-800 grand a year? I mean, you're out of money in
12 a hurry here if we keep messing around. So how do we
13 get this fixed and move on?

14 MR. KAUFMAN: Believe me, I keep hearing
15 from my client about how out of money they are every
16 time I talk about a bill here.

17 MR. BAUMAN: I'll pay your bill when I get
18 my money back.

19 COMMISSIONER MCGAHN: And the longer we sit
20 here, sorry, the more money we're burning, but it may
21 be money well spent.

22 MR. KAUFMAN: Again, to address your point,
23 well, as I mentioned before, the Fair Political
24 Practices Commission has essentially proposed exactly
25 that, kind of a catchup entry, to bring your campaign

1 reports into balance with what the current situation
2 actually is and maybe doing a lump sum in and out, to
3 bring those reports current.

4 So to address that part of the issue, I
5 think that's one way of dealing with it. Because we
6 can sit here and talk about, you know, trying to find
7 every in-and-out transaction or how do you
8 characterize this or how do you characterize that.
9 But the point is, the money has gone out of the
10 account, so how do we, you know, account for it.

11 The other thing I should add is that with
12 the change, it probably goes without saying, but, I
13 mean, the Committee has opened up new bank accounts,
14 new bank, fresh start. You know, we know how to track
15 that activity now. We know where we started after
16 September 2nd and we know where we've gone from there.
17 So you know, hopefully, it's a new day and we're able
18 to account for, you know, kind of where we're at.

19 But there is going to be a gap between
20 whatever happened previously and where things stood on
21 September 2nd, when the bank accounts became frozen,
22 and we are going to have to deal with that. I mean,
23 putting the audit aside, from 2007 to 2008, we have to
24 deal with that when the Committee files its next
25 report in January, coming up soon, there's going to be

1 a gap that we can't resolve. So how do we do that?

2 COMMISSIONER MCGAHN: Yeah, that's the
3 question.

4 CHAIR BAUERLY: Well, as --

5 COMMISSIONER MCGAHN: This isn't the time
6 for us to decide.

7 CHAIR BAUERLY: Well, it's not, but also of
8 course our Reports Analysis Division has been working
9 with lots of committees on this problem and they have
10 some solutions, including filing Form 99 to explain
11 what's going on. So I think that there's certainly
12 help available to you and how to do that.

13 COMMISSIONER MCGAHN: It used to be when
14 then Congressman, now Speaker Boehner had a problem, I
15 recall, I think he had to go back three years and do
16 amendments and that used to be, at least, the way RAD
17 approached it and I think they still do that in some
18 instances. I'm not sure you can go back three years
19 and make amendments because you don't have the
20 records, what the money went to. That may not be an
21 option. But I'm certainly open to the fresh start
22 idea, as the state agency is doing. I don't see any
23 other way around this.

24 Now, how you guys do your report? That's a
25 work in progress and I hope everyone keeps an open

1 mind and works through this. But you do raise a good
2 point, you still have reports due and they're under
3 oath and someone has to sign those. And all of a
4 sudden, you have the new person saying, how can I sign
5 this. I know these numbers aren't right. So even
6 though we don't decide that today, they have to decide
7 it pretty soon. So what do we do? We put an
8 asterisk, it's under oath, it's close enough? I mean,
9 it's a very tough position you're in.

10 And I do want to thank you for taking the
11 time and the expense to fly out here to talk to us. I
12 think it's been very helpful for me and I think that
13 it's not a cheap trip. And the downside of giving
14 people the ability to come and have oral presentations
15 in front of the Commission is they actually come and
16 do oral presentations, and if you're not a Beltway
17 guy, it's not cheap.

18 So that's another cost you've endured to
19 deal with this that I think needs to be put on the
20 scale of things you've done to make this right. So I
21 don't have any other questions, but we do have to
22 figure out in the short term, when is your next report
23 due?

24 MR. KAUFMAN: In January.

25 COMMISSIONER MCGAHN: Yeah, pretty soon.

1 Year End, right?

2 MR. KAUFMAN: Yeah.

3 MR. BAUMAN: It should be an interesting
4 year, a big hole in the middle of it.

5 CHAIR BAUERLY: Any other questions from
6 Commissioners?

7 (No further questions from Commissioners.)

8 CHAIR BAUERLY: Any questions from the
9 Office of the Staff Director?

10 MR. HINTERMEISTER: Yeah. I just wanted to
11 get clarification on just a couple of things in your
12 response, namely, on page 2, and earlier you said that
13 there's losses of approximately \$200,000. Do you know
14 the time period on that? Was that all within the
15 audit period or are we talking over a long period of
16 time?

17 MR. KAUFMAN: No, that amount, and again,
18 that reflects all of the various accounts of this
19 political organization, state and federal, that is the
20 difference between what the Committee understood or
21 believed that was in its accounts as of September 2nd,
22 and the amounts that were actually in their accounts
23 as of September 2nd. So we don't know the period of
24 time that resulted in that discrepancy. We don't know
25 if that relates to transactions in and out dating back

1 to 2007, 2008, '09, '10. I mean, we just know that
2 that's an amount that the Committee's records --

3 MR. HINTERMEISTER: Okay.

4 MR. KAUFMAN: -- are out of balance.

5 MR. BAUMAN: And may I add just one thing,
6 the other thing that we don't know is if there were
7 expenses over the course of years that were paid, that
8 might not actually have been our expenses --

9 MR. HINTERMEISTER: Okay.

10 MR. BAUMAN: -- if you follow what I mean.
11 So we had an expectation, based on our balance sheet,
12 of what was in each account. We were given a number
13 by the Bank of what was in there. So those are the
14 two numbers, as Mr. Kaufman referenced. Whatever
15 might have happened prior in addition, I don't know.

16 MR. KAUFMAN: It could be attributable to
17 contributions that never made it into the bank
18 account. It could be attributable to funds that were
19 taken out of the bank account and put in other
20 clients' accounts. I mean, it could be attributable
21 to a host of transactions.

22 MR. HINTERMEISTER: Okay. And then my
23 second question is kind of in response to Commissioner
24 McGahn's comments, working backwards and trying to
25 find dry land. Is that a possibility at all? I mean,

1 just looking at the draft audit report and looking at
2 the adjustments that are in there, is there anyway
3 that some of those misstatements were not tied to the
4 embezzlement and we could come to kind of a bright
5 line between what was caused by the embezzlement and
6 what was not caused by the embezzlement?

7 MR. KAUFMAN: Unfortunately, I don't think
8 we can answer that question with any certainty. I
9 mean, I do think that I can say that unless we're all
10 going to be shocked, I can't imagine that the
11 transactions that we're talking about here have to do
12 with anything other than the embezzlement or the
13 desire to cover up some other transactions. I mean,
14 they don't make much sense and I think the auditors
15 found that they didn't make much sense.

16 MR. HINTERMEISTER: Okay. I don't have any
17 further questions.

18 CHAIR BAUERLY: Are there any questions from
19 the Office of General Counsel?

20 MR. HERMAN: We have no questions, Madam
21 Chair.

22 CHAIR BAUERLY: Okay, thank you. Mr.
23 Kaufman, we allow the counsel for the Committee to
24 conclude our hearing with any additional remarks, if
25 you have any. We've obviously gone on for an hour-

1 and-a-half, so we've covered a lot of ground. But
2 please proceed if you have anything further you would
3 like to provide for the Commission.

4 MR. KAUFMAN: Thank you. I think we've
5 covered most of the ground that needs to be covered.
6 I just want to again thank the Commission for
7 affording us this opportunity to explain the
8 circumstances and to hear us out on all of the issues
9 that this Committee has faced, I think as has been
10 noted numerous times in this hearing room.

11 The L.A. County Democratic Party is a victim
12 here and we hope that whatever way that the audit
13 report ultimately gets issued, that it reflects the
14 true set of circumstances and reflects who was
15 responsible for these transactions and the fact that
16 this Committee, you know, had no knowledge or
17 understanding of the transactions that are at issue
18 and should not be held responsible for whatever
19 failings there may have been on the part of the
20 Committee to report these transactions in accordance
21 with the federal Election Law.

22 So we appreciate the opportunity to be heard
23 today. We are happy to come to Washington, D.C. and
24 visit your fair city anytime. But, hopefully, it will
25 be under other circumstances in the future. And we

1 thank you, again, for accommodating us on the
2 scheduling of this hearing.

3 CHAIR BAUERLY: Thank you. Thank you, both,
4 for appearing before the Commission today. We
5 appreciate the information and your presentation.
6 This hearing is adjourned. Thank you.

7 (Whereupon, at 11:30 a.m., the hearing in
8 the above-entitled matter was concluded.)

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REPORTER'S CERTIFICATE

DOCKET NO.: A09-07
CASE TITLE: Audit Hearing: Los Angeles County
Democratic Committee
HEARING DATE: December 14, 2011
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Election Commission.

Date: December 14, 2011

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