



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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September 8, 2014

MEMORANDUM

AGENDA ITEM

To: The Commission

Through: Alec Palmer *with for*
Staff Director

For Meeting of 11-6-14

From: Patricia C. Orrock *pc/peo*
Chief Compliance Officer

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Assistant Staff Director
Audit Division

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Audit Manager

By: Jim Miller *JM*
Lead Auditor

Subject: Audit Division Recommendation Memorandum on the Joe Walsh for
Congress Committee, Inc. (JWFC) (A13-01)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presents its recommendations below and discusses the findings in the attached Draft Final Audit Report (DFAR). The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

Finding 1. Disclosure of Occupation/Name of Employer

JWFC did not submit a response to the Interim Audit Report. In response to the DFAR, JWFC filed amended disclosure reports that materially complied with the recommendation.

The Audit staff recommends that the Commission find that JWFC failed to disclose occupation/name of employer information for contributions from individuals totaling \$334,146 and did not demonstrate "best efforts" to obtain, maintain, and submit disclosure information with respect to these contributions.

Finding 2. Receipt of Contributions in Excess of the Limit

JWFC did not submit a response to the Interim Audit Report. In response to the DFAR, JWFC provided letters sent to contributors for contributions totaling \$60,125 that were eligible for presumptive redesignation/retribution. The Audit staff considers the \$60,125 as excessive contributions that have been resolved untimely.

The Audit staff recommends that the Commission find that JWFC received excessive contributions totaling \$92,325.¹

JWFC did not request an audit hearing.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

In case of an objection, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Jim Miller or Zuzana Pacious at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on the Joe Walsh for Congress Committee, Inc.

cc: Office of General Counsel

¹ This amount consists of excessive contributions resolved untimely (\$71,125) and excessive contributions resolvable only by a refund to contributors or disgorgement to the U.S. Treasury (\$21,200). \$92,325 = \$(71,125 + 21,200).



Draft Final Audit Report of the Audit Division on the Joe Walsh for Congress Committee, Inc.

(January 1, 2011 – December 31, 2012)

Why the Audit Was Done

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

Future Action

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

About the Campaign (p. 2)

Joe Walsh for Congress Committee, Inc. is the principal campaign committee for Joe Walsh, Republican candidate for the U. S. House of Representatives from the state of Illinois, 8th District, and is headquartered in Lake Zurich, Illinois. For more information, see the Campaign Organization Chart, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 1,321,815
○ Contributions from Political Committees	662,810
○ Other Receipts	26,455
Total Receipts	\$ 2,011,080
• Disbursements	
○ Operating Expenditures	\$ 1,858,014
○ Loan Repayments ²	13,400
○ Contribution Refunds	22,650
○ Other Disbursements	114,350
Total Disbursements	\$ 2,008,414

Findings and Recommendations (p. 3)

- Disclosure of Occupation/Name of Employer (Finding 1)
- Receipt of Contributions in Excess of the Limit (Finding 2)

¹ 2 U.S.C. §438(b).

² These repayments were for loans from the previous election cycle.

Draft Final Audit Report of the Audit Division on the Joe Walsh for Congress Committee, Inc.

(January 1, 2011 - December 31, 2012)



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Part I

Background

Authority for Audit

This report is based on an audit of the Joe Walsh for Congress Committee, Inc. (JWFC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

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

1. the receipt of excessive contributions and loans;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the disclosure of individual contributors' occupation and name of employer;
5. the consistency between reported figures and bank records;
6. the completeness of records; and
7. other committee operations necessary to the review.

Part II

Overview of Campaign

Campaign Organization

Important Dates	
• Date of Registration	January 13, 2010
• Audit Coverage	January 1, 2011 – December 31, 2012
Headquarters	Lake Zurich, IL
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Nine (six checking and three savings)
Treasurer	
• Treasurer When Audit Was Conducted	Helene M. Miller-Walsh
• Treasurer During Period Covered by Audit	Helene M. Miller-Walsh
Management Information	
• Attended Commission Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2011	\$ 21,891
Receipts	
○ Contributions from Individuals	1,321,815
○ Contributions from Political Committees	662,810
○ Other Receipts	26,455
Total Receipts	\$ 2,011,080
Disbursements	
○ Operating Expenditures	1,858,014
○ Loan Repayments	13,400
○ Contribution Refunds	22,650
○ Other Disbursements	114,350
Total Disbursements	\$ 2,008,414
Cash-on-hand @ December 31, 2012	\$ 24,557

Part III

Summaries

Findings and Recommendations

Finding 1. Disclosure of Occupation/Name of Employer

A review of all contributions from individuals requiring itemization indicated that 285 contributions totaling \$334,146 lacked disclosure of occupation/name of employer. Furthermore, "best efforts" to obtain, maintain and submit information had not been sufficiently documented for these contributions. JWFC did not submit a response to the Interim Audit Report. (For more details, see p. 4.)

Finding 2. Receipt of Contributions in Excess of the Limit

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any contributions exceeded the limit. This review indicated that JWFC received apparent excessive contributions from 29 individuals totaling \$92,325. These errors occurred as a result of JWFC not resolving the excessive portions of contributions by forwarding a presumptive letter to the contributor or issuing a refund in a timely manner. JWFC did not submit a respond to the Interim Audit Report. (For more details, see p. 5.)

Part IV

Findings and Recommendations

Finding 1. Disclosure of Occupation/Name of Employer

Summary

A review of all contributions from individuals requiring itemization indicated that 285 contributions totaling \$334,146 lacked disclosure of occupation/name of employer. Furthermore, “best efforts” to obtain, maintain and submit information had not been sufficiently documented for these contributions. JWFC did not submit a response to the Interim Audit Report.

Legal Standard

- A. Itemization Required for Contributions from Individuals.** An authorized candidate committee must itemize any contribution from an individual if it exceeds \$200 per election cycle, either by itself or when combined with other contributions from the same contributor. 2 U.S.C. §434(b)(3)(A).
- B. Required Information for Contributions from Individuals.** For each itemized contribution from an individual, the committee must provide the following information:
- the contributor’s full name and address (including zip code);
 - the contributor’s occupation and the name of his or her employer;
 - the date of receipt (the date the committee received the contribution);
 - the amount of the contribution; and
 - the calendar year-to-date total of all contributions from the same individual. 2 U.S.C. § 434(b)(3)(A) and 11 CFR §§ 100.12 and 104.3(a)(4)(i).
- C. Best Efforts Ensure Compliance.** When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee’s reports and records will be considered in compliance with the Act. 2 U.S.C. § 432(i) and 11 CFR §104.7(a).
- D. Definition of Best Efforts.** The treasurer and the committee will be considered to have used “best efforts” if the committee satisfied all of the following criteria.
- All written solicitations for contributions included:
 - a clear request for the contributor’s full name, mailing address, occupation, and name of employer; and
 - the statement that such reporting is required by Federal law.
 - Within 30 days of receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
 - The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was

contained in the committee's records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR § 104.7(b).

Facts and Analysis

A. Facts

A review of all itemized contributions from individuals indicated that 285 contributions totaling \$334,146, or 29 percent of the dollar value of individual contributions required to be itemized by JWFC, lacked disclosure of occupation/name of employer. Most of the contributor entries with missing information were either disclosed with the notation "Info Requested" or left blank on the Schedules A (Itemized Receipts) filed with the Commission.

During audit fieldwork, the Audit staff reviewed the receipt documents provided by JWFC to determine if it had utilized "best efforts" to obtain, maintain and submit the missing information. A JWFC representative explained that the list of contributors to whom the follow-up letters requesting the occupation/name of employer information were sent, was maintained electronically. That list was inadvertently destroyed when one of JWFC's computers "crashed." However, JWFC maintained a physical file for letters it received from the contributors who responded to its request for occupation/name of employer information. The Audit staff reviewed the available follow-up letters and determined that JWFC maintained records for 88 individuals who made, in aggregate, 106 contributions totaling \$111,860. Nevertheless, JWFC did not submit that information, as required, in amended disclosure reports and therefore did not establish "best efforts."

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed this matter with the JWFC representative and presented a list of 88 individuals for whom the occupation/name of employer information was available but not disclosed. The JWFC representative agreed to amend the reports to disclose the missing information.

The Interim Audit Report recommended that JWFC establish "best efforts" by amending its reports to disclose the missing information relating to the 106 contributions.

C. Committee Response to the Interim Audit Report

JWFC did not submit a response the Interim Audit Report, nor were amended reports filed. The Audit staff made several attempts to contact the JWFC representative but was unsuccessful.

Finding 2. Receipt of Contributions in Excess of the Limit

Summary

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any contributions exceeded the limit. This review indicated that JWFC

received apparent excessive contributions from 29 individuals totaling \$92,325. These errors occurred as a result of JWFC not resolving the excessive portions of contributions by forwarding a presumptive letter to the contributor or issuing a refund in a timely manner. JWFC did not submit a response to the Interim Audit Report.

Legal Standard

A. Authorized Committee Limits. For the 2012 election, an authorized committee may not receive more than a total of \$2,500 per election from any one person or \$5,000 per election from a multicandidate political committee. 2 U.S.C. §441a(a)(1)(A), (2)(A) and (f); 11 CFR §§110.1(a) and (b) and 110.9(a).

B. Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable check to the donor; or
- Deposit the check into its federal account and:
 - Keep enough money in the account to cover all potential refunds;
 - Keep a written record explaining why the contribution may be illegal;
 - Include this explanation on Schedule A if the contribution has to be itemized before its legality is established;
 - Seek a reattribution or a redesignation of the excessive portion, following the instructions provided in the Commission regulations (see below for explanations of reattribution and redesignation); and
 - If the committee does not receive a proper reattribution or redesignation within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii)(B).

C. Joint Contributions. Any contribution made by more than one person (except for a contribution made by a partnership must include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. A joint contribution is attributed equally to each donor unless a statement indicates that the funds should be divided differently. 11 CFR §110.1(k)(1) and (2).

D. Reattribution of Excessive Contributions. The Commission regulations permit committees to ask donors of excessive contributions (or contributions that exceed the committee's net debts outstanding) whether they had intended their contribution to be a joint contribution from more than one person and whether they would like to reattribute the excess amount to the other contributor. The committee must inform the contributor that:

- The reattribution must be signed by both contributors;
- The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper reattribution or refund the excessive portion to the donor. 11 CFR

§§103.3(b)(3) and 110.1(k)(3)(ii)(B). Further, a political committee must retain written records concerning the reattribution in order for it to be effective. 11 CFR §110.1(l)(5).

Notwithstanding the above, any excessive contribution that was made on a written instrument that is imprinted with the names of more than one individual may be attributed among the individuals listed unless instructed otherwise by the contributor(s). The committee must inform each contributor:

- How the contribution was attributed; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3)(B).

E. Redesignation of Excessive Contributions. When an authorized candidate committee receives an excessive contribution (or a contribution that exceeds the committee's net debts outstanding), the committee may ask the contributor to redesignate the excess portion of the contribution for use in another election. The committee must inform the contributor that:

- The redesignation must be signed by the contributor;
- The redesignation must be received by the committee within 60 days after the committee received the original contribution; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(b)(5).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper redesignation or refund the excessive portion to the donor. 11 CFR §§103.3(b)(3) and 110.1(b)(5)(ii)(A). Further, a political committee must retain written records concerning the redesignation in order for it to be effective. 11 CFR §110.1(l)(5).

When an individual makes an excessive contribution to a candidate's authorized committee, the campaign may presumptively redesignate the excessive portion to the general election if the contribution:

- Is made before that candidate's primary election;
- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the contributor to exceed any other contribution limit. 11 CFR §110.1(b)(5)(ii)(B)(1)-(4).

The committee is required to notify the contributor of the redesignation within 60 days of the treasurer's receipt of the contribution, and must offer the contributor the option to receive a refund instead.

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff identified 29 individuals with apparent excessive contributions totaling \$92,325.

JWFC resolved \$11,000 of the excessive contributions by sending presumptive reattributions and/or redesignations letters that were untimely. An additional excessive total of \$60,125 could still be resolved, albeit untimely, via presumptive reattribution or redesignation letters being sent to the contributors. The remaining excessive contributions totaling \$21,200 appear resolvable only by refund to the contributors or disgorgement to the U.S. Treasury.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff informed the JWFC representative of this matter at the exit conference. The Audit staff provided schedules of the apparent excessive contributions along with the necessary actions to resolve them. The representative stated that she planned to review all excessive contributions and obtain the necessary documents. She also mentioned that she would contact the JWFC employees to inquire about the records and reasons the excessive contributions occurred.

Subsequent to the exit conference, the JWFC representative informed the Audit staff that, upon the receipt of the Interim Audit Report, the excessive contributions resolvable only by refund to the contributors (\$21,200) would be disclosed on JWFC's Schedule D (Debts and Obligations) since JWFC has no funds available to make such refunds. In addition, the JWFC representative provided a list of contributors, along with their addresses, to whom presumptive reattribution or redesignation letters were going to be sent.

The Interim Audit Report recommended that JWFC provide evidence that demonstrated that the contributions totaling \$92,325 were not excessive or that they were timely resolved. Absent such evidence, JWFC should have resolved these apparent excessive contributions by either (1) sending notices for those contributions that were eligible for presumptive redesignation/reattribution letters, informing contributors about how the excessive portion of their contributions was resolved and offering a refund, (2) refunding the excessive portion of each contribution that was not eligible for presumptive redesignation/reattribution letters or making a payment to the U.S. Treasury and providing documentation or, (3) disclosing the contributions requiring refund on Schedule D if funds were not available to make the necessary refunds.

C. Committee Response to the Interim Audit Report

JWFC did not submit a response to the Interim Audit Report, nor were amended reports filed. The Audit staff made several attempts to contact the JWFC representative but was unsuccessful.