



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 29, 2011

MEMORANDUM

To: The Commission

Through: Alec Palmer
Staff Director

From: Patricia Carmona *PC*
Chief Compliance Officer

Thomas Hintermister *TH*
Assistant Staff Director
Audit Division

Alex Boniewicz *AB*
Audit Manager

By: Kendrick Smith *KS*
Lead Auditor

Subject: Audit Division Recommendation Memorandum on Chris Dodd for
President, Inc. (CDFP)

Discussed below are revisions to the attached Draft Final Audit Report (DFAR) as well as the Audit Division's recommendations. The revisions and recommendations are based on CDFP's response to the DFAR and the audit hearing. The Office of General Counsel reviewed this memorandum, concurs with the recommendations and provided the attached comments.

CDFP submitted its response to the DFAR and requested an audit hearing on July 26, 2011. On August 31, 2011, CDFP presented certain matters at an audit hearing before the Commission.

Finding 1. Net Outstanding Campaign Obligations

CDFP did not mention this matter in its response to the DFAR or during the audit hearing. The Audit staff recommends that the Commission find that the Candidate did not receive matching fund payments in excess of his entitlement.

Finding 2. Receipt of Prohibited Contribution and Contributions that Exceed Limits

A. Receipt of Prohibited Contribution

In its response to the DFAR and during the audit hearing, CDFP stated there was no sound basis for a finding that it received a prohibited contribution from the International Association of Firefighters (IAFF). CDFP stated the following factors for the Commission's consideration.

First, CDFP believes the amount in question should be \$12,088, not \$15,423, since this was the amount billed to CDFP. Second, CDFP contends the billing was actually not from the union itself, but rather the union's separate segregated fund, FIREPAC. Although it is uncertain, CDFP suggested that the invoice may have been printed on the IAFF's letterhead and presented as an agreement between the union and CDFP because the union handled the administrative functions of its separate segregated fund. Third, CDFP noted that it eventually overpaid FIREPAC out of an abundance of caution and that FIREPAC appropriately reported a debt owed by CDFP and subsequently deposited CDFP's payment into its account. Finally, CDFP took exception to language in the DFAR that CDFP "did not consider the resolution of the contribution a high priority obligation."

The Audit staff offers the following concerning CDFP's response to the DFAR and comments presented at the audit hearing. The Audit staff maintains that the amount of the prohibited contribution is \$15,423. At the time the RV rental costs were incurred, the IAFF paid for the RV rental cost on behalf of CDFP, thereby giving something of value to CDFP, namely, the RV rental cost that CDFP should have paid. CDFP eventually repaid the IAFF for the RV rental cost, more than a year and a half from the invoice date. Therefore, the value of the prohibited contribution should be the ordinary market cost of renting the RV and not the pro-rata amount of \$12,088.

With respect to the question of whether the union or FIREPAC billed CDFP, the Audit staff provides the following information. First, the IAFF billed CDFP for use of the RV. The invoice was printed on the IAFF's letterhead and includes language that indicates an agreement between the IAFF and CDFP for the RV's usage. The only mention of FIREPAC is regarding payment. As such, in subsection "1. Facts" of section "A. Receipt of Prohibited Contribution" (page 10); more detail regarding the invoice from the IAFF will be included in the audit report. Specifically, the Proposed Final Audit Report (PFAR) will state that the invoice was printed on the IAFF's letterhead and include CDFP's explanation presented at the audit hearing that the invoice was printed on the IAFF's letterhead since it handled the administrative functions of FIREPAC.

Concerning CDFP's payment to FIREPAC for use of the RV, the Audit staff notes that the DFAR clearly acknowledges that CDFP eventually overpaid \$32,233 to FIREPAC for the rental and wrapping associated with the RV and further details FIREPAC's reporting of the debt, as well as the timing of CDFP's payment (DFAR, p. 11). It is the Audit staff's opinion that CDFP accepted a contribution from a labor organization and repaid the amount more than a year and a half after the invoice date.

Finally, in regard to the language that CDFP "did not consider the resolution of the contribution a high priority obligation," (DFAR, p. 12), the Audit staff concurs with CDFP and the sentence in question will be removed from the PFAR.

The Audit staff recommends that the Commission find that CDFP received a prohibited contribution of \$15,423 from the IAFF.

B. Apparent Excessive Contributions from Other Political Committees

CDFP did not offer any comments in its response to the DFAR or at the audit hearing regarding this portion of the finding.

The Audit staff recommends that the Commission find that CDFP received excessive contributions from other political committees totaling \$44,300.

C. Receipt of Excessive General Election Contributions

In its response to the DFAR and during the audit hearing, CDFP maintained that the audit report should make clear that, for the bulk of the excessive contributions, CDFP timely obtained redesignations and issued refunds. CDFP continued to assert that this finding arose from an audit error and this resulted in language being removed from the DFAR, which previously had been included in the Preliminary Audit Report.

CDFP stated that it transferred all its general election contributions to the Candidate's Senate campaign, Friends of Chris Dodd (FOCD). In addition, CDFP stated that the DFAR incorrectly stated (1) that it had not provided the required redesignation letters necessary to transfer the excessive contributions, (2) that it resolved excessive contributions of \$160,050 in an untimely manner and (3) that contributions of \$173,210 have not been transferred to FOCD.

The Audit staff agrees that the disposition of the excessive contributions could have been presented in a more precise manner in the DFAR. As such, in the PFAR, the Audit staff will modify the summary on page 4 (Part III - Summaries) and page 9 (Part IV - Findings and Recommendations) to provide a more precise presentation of excessive contributions that have been resolved by CDFP and of excessive contributions that still require resolution. Specifically, the Audit staff will clarify that of the \$51,000 in excessive contributions from other political committees, \$4,800 remains unresolved and of the \$244,050 in excessive general election contributions received by CDFP, only \$7,100 remains unresolved. Also, the Audit staff will remove footnote 10 (DFAR, p.13) in the PFAR.

CDFP took exception to the Audit staff's statement that certain documentation "was not previously available." Although the Audit staff made copies of the documentation provided during audit fieldwork, it is acknowledged that the language in the DFAR may not be a fair representation of CDFP's efforts to respond to the Preliminary Audit Report recommendations. Therefore, the Audit staff will remove the language in the PFAR.

Regarding CDFP's assertion that the DFAR incorrectly presented excessive contributions of \$160,050 as resolved in an untimely manner, the Audit staff has modified the finding to more accurately reflect CDFP's resolution of some excessive

contributions. Specifically, excessive contributions totaling \$144,950 previously categorized as resolved in an untimely manner have been re-categorized as resolved in a timely manner. The Audit staff and OGC concur that CDFP's action with respect to these refunds was made in accordance with guidelines outlined in Advisory Opinion 2008-04.

CDFP also claims that the DFAR incorrectly states that contributions of \$173,210 have not been transferred to FOCD. CDFP has provided the necessary redesignation letters for these contributions and, as a result, the Audit staff will remove footnote 11 (DFAR, p.14) from the PFAR.

The Audit staff recommends that the Commission find that CDFP received excessive general election contributions of \$241,950 (\$244,050 less a contribution of \$2,100 that CDFP demonstrated was not excessive), of which all but \$7,100 have been resolved.

Finding 3. Misstatement of Financial Activity

After consideration of CDFP's response to the DFAR and its comments during the audit hearing, the Audit staff will clarify in the PFAR that CDFP's net realized losses of \$150,370 should be reported on Schedule A-P (Itemized Receipts), Line 21 (Other Receipts) as a negative receipt.

The Audit staff recommends that the Commission find that CDFP misstated its financial activity for 2008.

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

Should an objection be received, 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 Kendrick Smith or Alex Boniewicz at 694-1200.

Attachments:

- Draft Final Audit Report on Chris Dodd for President, Inc.
- Office of General Counsel Analysis (ADRM) Received on November 18, 2011
- Office of General Counsel Analysis (DFAR) Received on May 24, 2011

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on Chris Dodd for President, Inc. January 24, 2007 – September 30, 2008

Why the Audit Was Done

Federal law requires the Commission to audit every political committee established by a candidate who receives public funds for the primary campaign.¹ The audit determines whether the candidate was entitled to all of the matching funds received, whether the campaign used the matching funds in accordance with the law, whether the candidate is entitled to additional matching funds, and whether the campaign otherwise complied with the limitations, prohibitions, and disclosure requirements of the election law.

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 Committee (p. 2)

Chris Dodd for President, Inc. is the principal campaign committee of Christopher J. Dodd, a candidate for the Democratic Party's nomination for the office of President of the United States. The Committee is headquartered in West Hartford, Connecticut. For more information, see chart on the Campaign Organization, p. 2.

Financial Activity (p. 3)

• Receipts	
○ Contributions from Individuals	\$ 9,848,996
○ Contributions from Political Committees	750,402
○ Transfers from Affiliated Committees	4,632,357
○ Loans Received	1,302,811
○ Matching Funds Received	1,961,742
○ Offsets to Operating Expenditures	127,012
○ Other Receipts	47,506
Total Receipts	\$ 18,670,826
• Disbursements	
○ Operating Expenditures	\$ 14,978,850
○ Loan Repayments	1,302,811
○ Transfers to Other Authorized Committees ²	507,910
○ Contribution Refunds	1,365,901
Total Disbursements	\$ 18,155,472

Findings and Recommendations (p. 4)

- Net Outstanding Campaign Obligations (Finding 1)
- Receipt of Prohibited Contribution and Contributions that Exceed Limits (Finding 2)
- Misstatement of Financial Activity (Finding 3)

¹ 26 U.S.C. §9038(a).

² This represents the transfer of general election contributions redesignated to the Candidate's Senate committee, Friends of Chris Dodd.

Draft Final Audit Report of the Audit Division on Chris Dodd for President, Inc.

January 24, 2007 – September 30, 2008

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Part I

Background

Authority for Audit

This report is based on an audit of Chris Dodd for President, Inc. (CDFP), undertaken by the Audit Division of the Federal Election Commission (the Commission) as mandated by Section 9038(a) of Title 26 of the United States Code. That section states "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received [matching] payments under section 9037." Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission's Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

Scope of Audit

This audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The receipt of transfers from other authorized committees.
4. The disclosure of contributions and transfers received.
5. The disclosure of disbursements, debts and obligations.
6. The recordkeeping process and completeness of records.
7. The consistency between reported figures and bank records.
8. The accuracy of the Statement of Net Outstanding Campaign Obligations.
9. The campaign's compliance with spending limitations.
10. Other campaign operations necessary to the review.

Inventory of Campaign Records

The Audit staff routinely conducts an inventory of campaign records before it begins the audit fieldwork. CDFP's records were materially complete and the fieldwork began immediately.

Part II

Overview of Campaign

Campaign Organization

Important Dates	
• Date of Registration	January 11, 2007
• Eligibility Period	November 26, 2007 - January 3, 2008 ³
• Audit Coverage	January 24, 2007 - September 30, 2008 ⁴
Headquarters	
West Hartford, Connecticut	
Bank Information	
• Bank Depositories	Two
• Bank Accounts	One checking, two investment
Treasurer	
• Treasurer When Audit Was Conducted	Kathryn Damato
• Treasurer During Period Covered by Audit	Kathryn Damato
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid staff

³ The period during which the candidate was eligible for matching funds began on the date of certification of his matching fund eligibility and ended on the date the candidate announced his withdrawal from the campaign. See 11 CFR §9033.

⁴ Limited reviews of receipts and expenditures were performed after September 30, 2008, to determine whether the candidate was eligible to receive additional matching funds.

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 24, 2007	\$ 0
o Contributions from Individuals	\$ 9,848,996 ⁵
o Contributions from Political Committees	750,402
o Transfers from Affiliated Committees	4,632,357
o Loans Received	1,302,811
o Matching Funds Received	1,961,742 ⁶
o Offsets to Operating Expenditures	127,012
o Other Receipts	47,506
Total Receipts	\$ 18,670,826
o Operating Expenditures	\$ 14,978,850
o Loan Repayments	1,302,811
o Transfers to Other Authorized Committee	507,910 ⁷
o Contribution Refunds	1,365,901
Total Disbursements	\$ 18,155,472
Cash-on-hand @ September 30, 2008	\$ 515,354

⁵ Approximately 25,000 contributions from more than 19,200 individuals.

⁶ As of September 30, 2008, CDFP had made four matching fund submissions totaling \$1,999,514 of which \$1,961,742 was certified by the Commission and paid to CDFP. This represents 9 percent of the maximum entitlement (\$21,025,000) a 2008 Presidential candidate could receive.

⁷ This represents the transfer of general election contributions redesignated to the Candidate's Senate committee, Friends of Chris Dodd.

Part III Summaries

Findings and Recommendations

Finding 1. Net Outstanding Campaign Obligations

As part of audit fieldwork, the Audit staff reviewed CDFP's financial activity through December 31, 2010. The review indicated that the Candidate did not receive matching fund payments in excess of his entitlement. In response to the Preliminary Audit Report, Counsel for CDFP (Counsel) did not dispute this finding, but noted that, in regard to the general election contributions maintained in an investment account, the basis value of the investment account, not the fair market value, should have been utilized in valuation.

(For more detail, see p. 6)

Finding 2. Receipt of Prohibited Contribution and Contributions that Exceed Limits

During audit fieldwork, Audit staff reviewed all contributions from other political committees. The review identified a prohibited contribution of \$15,423 from the International Association of Firefighters (IAFF), as well as \$51,000 in excessive contributions from other political committees. The prohibited contribution from the IAFF resulted from the rental of a bus/recreational vehicle (RV) decorated to identify Senator Dodd's Presidential campaign. The RV was provided to CDFP for its use just prior to the Iowa caucus. CDFP resolved this prohibited contribution, but in an untimely manner. The excessive contributions from other political committees were unresolved.

In addition, a review of general election contributions indicated that CDFP received contributions totaling \$244,050 for which it has not obtained the required redesignation letters necessary to transfer these funds to the Candidate's Senatorial Committee, Friends of Chris Dodd (FOCD). CDFP did not make appropriate refunds, either.

In its response to the Preliminary Audit Report, Counsel maintained that:

- CDFP had not received a prohibited contribution from the IAFF;
- regarding the \$51,000 in excessive contributions from other political committees, Counsel demonstrated that contributions totaling \$6,700 were not excessive, provided copies of negotiated refund checks for excessive contributions totaling \$39,500, and provided non-negotiated refund checks for the remaining \$4,800; and,
- with respect to the \$244,050 in general election excessive contributions, documentation that Counsel provided demonstrated excessive contributions totaling \$234,850 had been resolved, a contribution of \$2,100 was not excessive and excessive contributions totaling \$7,100 remain unresolved. (For more detail, see p. 8)

Finding 3. Misstatement of Financial Activity

During audit fieldwork, a comparison of reported figures with bank records revealed that CDFP understated its receipts by \$355,240 and overstated its disbursements by \$190,935 in 2008. In response to the Preliminary Audit Report, CDFP amended its reports, but excluded an adjustment relating to net realized investment losses. As a result, receipts for 2008 remain misstated. (For more detail, see p. 15)

Summary of Amounts Potentially Owed to the U.S. Treasury

- Finding 2 Receipt of Contributions that Exceed Limits – Unresolved \$ 11,900

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Part IV

Findings and Recommendations

Finding 1. Net Outstanding Campaign Obligations

Summary

As part of audit fieldwork, the Audit staff reviewed CDFP's financial activity through December 31, 2010. The review indicated that the Candidate did not receive matching fund payments in excess of his entitlement. In response to the Preliminary Audit Report, Counsel for CDFP (Counsel) did not dispute this finding, but noted that, in regard to the general election contributions maintained in an investment account, the basis value of the investment account, not the fair market value, should have been utilized in valuation.

Legal Standard

- A. Net Outstanding Campaign Obligations (NOCO).** Within 15 days after the candidate's date of ineligibility, the candidate must submit a statement of "net outstanding campaign obligations." This statement must contain, among other things:
- The total of all committee assets including cash on hand, amounts owed to the committee and capital assets listed at their fair market value;
 - The total of all outstanding obligations for qualified campaign expenses; and
 - An estimate of necessary winding-down costs. 11 CFR §9034.5(a).
- B. Entitlement to Matching Payments after Date of Ineligibility.** If, on the date of ineligibility, a candidate has net outstanding campaign obligations as defined under 11 CFR §9034.5, that candidate may continue to receive matching payments provided that he or she still has net outstanding campaign debts on the day when the matching payments are made. 11 CFR §9034.1(b).

Facts and Analysis

A. Facts

The Candidate's date of ineligibility (DOI) was January 3, 2008. As part of audit fieldwork, the Audit staff reviewed CDFP's financial activity through December 31, 2010, and prepared the Statement of Net Outstanding Campaign Obligations that appears on the next page.

Chris Dodd for President, Inc.
Statement of Net Outstanding Campaign Obligations
As of January 3, 2008
Prepared through December 31, 2010

Assets

Primary Election Cash in Bank	\$ 271,389	
General Election Cash in Bank	1,706,575	
Accounts Receivable	46,899	
Capital Assets	8,407	
	<hr/>	
Total Assets		\$2,033,270

Liabilities

Primary Election Accounts Payable	\$ 542,065	
General Election Accounts Payable	1,706,575	[a]
Loans Payable	1,302,811	
Winding Down Costs:		
Actual 1/4/08 – 12/31/10	1,301,910	[b]
Amounts Payable to U.S. Treasury for:		
Unresolved Excessive Contributions (See Finding 2)	4,800	[c]
	<hr/>	
Total Liabilities		4,858,161
Net Outstanding Campaign Obligations (Deficit) as of January 3, 2008		<u>(\$2,824,891)</u>

Footnotes to NOCO Statement:

- [a] To ensure that the need to refund general election contributions had no impact on matching fund entitlement, the Audit staff adjusted this payable to match the general election cash in bank amount. Prior to DOI, CDFP received general election contributions of \$1,749,670; however, at DOI, the fair market value of the investment account in which these contributions were maintained was \$1,706,575, a loss of \$43,095.
- [b] Estimated winding down costs are not included above because this would only increase the deficit. It is likely that CDFP is still incurring minimal salary and legal expenses.
- [c] This amount does not include \$7,100 in unresolved excessive general election contributions.

Shown below are adjustments for funds received after January 3, 2008, through July 17, 2008 (the date of the last matching fund payment):

Net Outstanding Campaign Obligations (Deficit) as of 1/3/08	(\$2,824,891)
Private Contributions and Other Receipts Received 1/4/08 through 7/17/08	503,712
Matching Funds Received 1/4/08 through 7/17/08	1,961,741
Remaining Net Outstanding Campaign Obligations (Deficit) as of 7/17/08	(\$359,438)

As presented above, CDFP has not received matching fund payments in excess of its entitlement.

B. Preliminary Audit Report & Audit Division Recommendation

The Audit staff presented the NOCO to CDFP representatives at the exit conference. In response, CDFP did not address the NOCO.

In the Preliminary Audit Report, the Audit staff recommended that CDFP demonstrate whether an adjustment(s) was required to any component of the NOCO statement or provide any other comments it desired.

C. Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report, Counsel did not dispute the NOCO but stated that incorrect amounts were presented for "General Election Cash in Bank" and "General Election Accounts Payable" because these figures were generated using the fair market value instead of the basis value of the account. They further added that "While this error does not affect the Committee's net financial position, it is significant in light of Findings 2 and 3..."

In accordance with 11 C.F.R. §9034.5(a)(2)(i), the Audit staff presented the general election investment account at fair market value as of the Candidate's DOI.

Finding 2. Receipt of Prohibited Contribution and Contributions that Exceed Limits

Summary

During audit fieldwork, Audit staff reviewed all contributions from other political committees. The review identified a prohibited contribution of \$15,423 from the International Association of Firefighters (IAFF), as well as \$51,000 in excessive contributions from other political committees. The prohibited contribution from the IAFF resulted from the rental of a bus/recreational vehicle (RV) decorated to identify Senator Dodd's Presidential campaign. The RV was provided to CDFP for its use just prior to the Iowa caucus. CDFP resolved this prohibited contribution, but in an untimely manner. The excessive contributions from other political committees were unresolved.

In addition, a review of general election contributions indicated that CDFP received contributions totaling \$244,050 for which it has not obtained the required redesignation letters necessary to transfer these funds to the Candidate's Senatorial Committee, Friends of Chris Deed (FOCD). CDFP did not make appropriate refunds, either.

In its response to the Preliminary Audit Report, Counsel maintained that:

- CDFP had not received a prohibited contribution from the IAFF;
- Regarding the \$51,000 in excessive contributions from other political committees, Counsel demonstrated that contributions totaling \$6,700 were not excessive, provided copies of negotiated refund checks for excessive contributions totaling \$39,500, and provided non-negotiated refund checks for the remaining \$4,800; and,
- With respect to the \$244,050 in general election excessive contributions, documentation that Counsel provided demonstrated excessive contributions totaling \$234,850 had been resolved, a contribution of \$2,100 was not excessive and excessive contributions totaling \$7,100 remain unresolved.

Legal Standard

A. Authorized Committee Limits. An authorized committee may not receive more than a total of \$2,300 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.

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

C. 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:

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

Within 60 days of 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).

D. General Election Contributions. If a candidate is not a candidate in the general election, any contributions made for the general election shall be refunded to the contributors or redesignated in accordance with 11 CFR §§110.1(b)(5) or 110.2(b)(5), as appropriate.

E. Unreimbursed Value of Transportation. The unreimbursed value of transportation provided to any campaign traveler is an in-kind contribution from the service provider to the candidate committee on whose behalf the campaign traveler traveled. 11 CFR §100.93(b)(2).

F. Payment of Transportation. If a campaign traveler uses any other means of transportation, with the exception of an airplane, the campaign committee on whose behalf the travel is conducted, must pay the service provider within 30 calendar days of the date of receipt of the invoice for such travel, but not later than 60 calendar days after the date the travel began. 11 CFR §100.93(d).

G. Receipt of Prohibited Contribution from Labor Organizations. Political campaigns may not accept contributions made from the general treasury funds of labor organizations. 2 U.S.C. §441b.

Facts and Analysis

A. Receipt of Prohibited Contribution

1. Facts

During audit fieldwork, the Audit staff noted that CDFP was billed \$12,088 on February 12, 2008, by the International Association of Fire Fighters for a share of the rental cost of an RV. The RV was rented for a period of 48 days from November 18, 2007 to January 4, 2008. It was decorated to identify Senator Dodd's Presidential campaign. The invoice from the IAFF indicated that CDFP used the RV for 18 days in December 2007, through the date of ineligibility. The cost was prorated using a daily rate. The total cost of the rental for the 48 days was \$32,233, with \$15,423 attributed to the cost of the vehicle and \$16,810 to the cost of "wrapping" it to identify the campaign. The invoice requested that payment of \$12,088 be made within 60 days to the International Association of Firefighters Interested in Registration and Education PAC (FIREPAC), a separate segregated fund of the IAFF.

In its December 2007 monthly report, FIREPAC disclosed making an independent expenditure⁸ on November 28, 2007, in support of Dodd for "RV Art & Wrapping" in the amount of \$16,810. When questioned, CDFP representatives stated that the IAFF initially paid for the RV to use as transportation to events involving communications with the IAFF's restricted class. They stated that FIREPAC paid to wrap the RV because it

⁸ FIREPAC reported independent expenditures of approximately \$374,000 in support of CDFP.

was a communication expressly advocating Senator Dodd's presidential candidacy, which had not been coordinated with CDFP. CDFP later sought to determine whether it could obtain the use of the wrapped RV from the IAFF for its own purposes. The IAFF made the RV available and CDFP used it just prior to the Iowa caucus. As mentioned above, the invoice was for a portion of the cost (\$12,088); however, CDFP paid the entire RV rental and wrapping cost of \$32,233. It should also be noted that CDFP's payment occurred more than one-and-a-half years after the invoice date. After reporting the independent expenditure, FIREPAC disclosed a debt owed by CDFP in its March 2008 monthly report for the full cost of the RV (\$32,233) and continued to report this debt until it reported the reimbursement in its December 2009 monthly report⁹.

2. Preliminary Audit Report & Audit Division Recommendation

In response to a discussion of this issue at the exit conference, CDFP representatives provided a copy of a reimbursement check, dated October 21, 2009, to IAFF FIREPAC for \$32,233. CDFP representatives stated that CDFP paid both for the use of the bus and the cost of the wrap to avoid receiving an in-kind contribution. In response to other inquiries from the Audit staff, CDFP representatives stated that it was their understanding that the IAFF paid the rental cost of the bus; that the same bus wrapping was utilized by both the IAFF and CDFP; and, that they are not aware of any other expenses that were paid by FIREPAC relating to the use or wrap of the bus after CDFP acquired its use.

The Audit staff acknowledges that the payment of \$32,233 by CDFP was an attempt to rectify this matter. However, the rental portion of the RV cost (\$15,423), apparently paid by the IAFF, appears to be a prohibited contribution. Labor organizations are prohibited from making contributions to political campaigns. The contribution was resolved in an untimely manner by CDFP as a result of the reimbursement made to FIREPAC, noted above.

In the Preliminary Audit Report, the Audit staff recommended that CDFP provide documentation demonstrating that it did not receive a prohibited contribution of \$15,423 from the IAFF, including documentation to verify that the IAFF did not pay for the rental portion of the RV.

3. Committee Response to Preliminary Audit Report

CDFP's response did not include any additional documentation. However, Counsel maintained that CDFP cannot be found to have received a prohibited contribution when it was directed (on the IAFF's invoice) to pay FIREPAC and it simply complied. In addition, Counsel stated that even if CDFP should have paid the IAFF, the 60-day timetable in 11 CFR §100.93 should not apply because it applies only to non-commercial forms of transportation. Counsel maintained that "the primary purpose of the wrapped bus was not to transport people from place to place, but rather to serve as an unusual form of campaign visibility, like the C-SPAN bus or the Ron Paul blimp." Analyzed in this manner, Counsel believed the proper question was whether the campaign paid for the use of the bus within a commercially reasonable time (Counsel cited 11 CFR §114.9(d) -

⁹ A reimbursement from CDFP was inadvertently deposited into its non-federal account. The subsequent transfer was reflected on the year-end report.

Use or rental of corporate or labor organization facilities by other persons). Counsel further added that the circumstances that led to the delay in payment were not adequately considered. The response stated that while the payment remained outstanding, CDFP was in a deficit position with many competing obligations that it sought to manage as best it could. Counsel maintained that CDFP chose to pay the full cost of the bus rental and wrap, in an abundance of caution, even though there was a strong argument that it could have paid less.

Regardless of whether the payment for the use of the RV is considered under 11 CFR §100.93 - use of non-commercial forms of transportation or 11 CFR §114.9(d) - use of corporate or labor organization facilities, reimbursement was not made within a commercially reasonable time.

CDFP's possible financial difficulty after the campaign does not excuse its acceptance of the contribution or explain why CDFP did not consider resolution of the contribution a high-priority obligation.

Finally, CDFP's decision to pay the entire rental cost of the RV does not negate the fact that CDFP received a contribution from a labor organization that it failed to resolve timely.

B. Apparent Excessive Contributions from Other Political Committees

1. Facts

During audit fieldwork, the Audit staff identified \$51,000 in apparent excessive contributions from other political committees, which remained unresolved. The contributions included:

- Three totaling \$8,000 that had been timely refunded by CDFP; however, the refund checks never cleared CDFP's bank account. As such, these remained unresolved excessive contributions.
- One for \$4,000 for which CDFP presented a timely, completed redesignation letter. However, CDFP neither transferred the contribution to FOCD, nor refunded it. It was noted that transferring the funds to FOCD would have resolved this issue, but because the candidate was no longer seeking re-election to the Senate, the transfer may not be plausible. The Audit staff considered this an unresolved excessive contribution.
- Thirteen excessive contributions totaling \$39,000 for which CDFP had failed to provide any evidence of a refund or redesignation.

2. Preliminary Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff provided a listing of these excessive contributions. Counsel did not address these contributions in its response.

In the Preliminary Audit Report, the Audit staff recommended that CDFP provide documentation demonstrating that it did not receive excessive contributions. Such documentation was to include evidence of a transfer to FOCD for the contribution that had been redesignated but not transferred, copies of refund checks negotiated in a timely

manner, or redesignation letters signed and dated in a timely manner. Absent such documentation, the Audit staff recommended that CDFP make appropriate refunds to contributors and provide evidence of such actions (copies of the front and back of negotiated refund checks) or make a payment of \$51,000 to the U.S. Treasury.

3. Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report, Counsel provided documentation demonstrating that three contributions totaling \$6,700 were not excessive. For the remaining 14 contributions totaling \$44,300, refund checks dated November 30, 2010, were submitted.

After consideration of CDFP's response, the Audit staff noted that three contributions totaling \$6,700 did not exceed the limits, 12 totaling \$39,500 were refunded in an untimely manner, and two totaling \$4,800 remain unresolved until evidence is provided that the refund checks have been negotiated. If CDFP is unable to provide such evidence, the Audit staff recommends that any unresolved excessive contributions be disgorged to the U.S. Treasury.

C. Receipt of Excessive General Election Contributions

1. Facts

During audit fieldwork, the Audit staff identified contributions designated for the General election totaling \$244,050¹⁰ for which CDFP did not provide the required redesignation letters necessary to transfer the funds to FOCD. In accordance with Advisory Opinion 2008-04 (AO), CDFP had six days from the receipt of the AO (dated September 2, 2008) to obtain redesignations or make refunds. Even if CDFP had obtained the required redesignation letters, it lacked the funds to complete the transfer or refund at the time. The Audit staff considered these unresolved excessive contributions until CDFP provided such letters.

2. Preliminary Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff provided CDFP representatives with a schedule outlining these excessive contributions. In its response, Counsel maintained that CDFP had properly refunded all its general election contributions. In the Preliminary Audit Report, the Audit staff recommended that CDFP provide documentation demonstrating that these contributions were not excessive. Such documentation was to include copies of timely negotiated refund checks or timely signed and dated redesignation letters. Absent this documentation, the Audit staff directed CDFP to make appropriate refunds to contributors and provide evidence of such actions (copies of the front and back of negotiated refund checks) or make a payment of \$244,050 to the U.S. Treasury.

3. Committee Response to Preliminary Audit Report

In its response to the Preliminary Audit Report, Counsel maintained that, upon receipt of the Preliminary Audit Report, of the \$244,050 in asserted unredesignated and unrefunded

¹⁰ The Audit staff also noted that CDFP transferred general contributions (\$67,800) to FOCD for which redesignation letters were not provided and has redesignation letters for \$98,410 in contributions to be transferred, but insufficient funds to do so.

contributions, only \$14,900 awaited refund or disgorgement. The documentation provided by Counsel included:

- a. Copies of 30 redesignation letters, for contributions totaling \$74,800, which were all completed and signed by the contributors. All the letters requested redesignation to the FOCD 2010 primary or general election and were dated prior to May 2008.
- b. A copy of an email confirmation from its receipts processing vendor demonstrating that it had processed a refund of a \$2,300 contribution on September 13, 2007.
- c. A copy of a negotiated disgorgement check for a contribution of \$5,000 and a letter sent to the Bureau of Public Debt on November 25, 2008. Other documentation stated that the political action committee, which made the original contribution, no longer existed.
- d. A copy of a negotiated disgorgement check to the U.S. Treasury for \$144,950 and dated November 30, 2010. Counsel stated that this check was for 82 stale-dated refund checks. Counsel provided check stubs for all the refund checks. From the check stubs, it appears that nearly all the refund checks were written on August 21, 2008. Counsel also added that, "While the Committee agrees that the stale-dated refund checks must be disgorged, many do not provide an appropriate basis for a finding of excessive contributions, in that they were lawfully received and timely refunded."
- e. Web page verification from its receipts processing vendor demonstrating that a \$2,100 contribution was returned for non-sufficient funds.
- f. Copies of a negotiated refund check for \$5,000, four refund checks totaling \$7,100, and a negotiated disgorgement check on \$2,800 to the U.S. Treasury for contributions that Counsel stated CDFP lacked evidence of refund or timely redesignation. All refund checks were dated November 26, 2010, and the disgorgement check was dated November 30, 2010.

As a result of the documentation presented by Counsel in response to the Preliminary Audit Report, which was not previously available, the \$244,050 of general election contributions discussed in the Preliminary Audit Report are categorized in the following manner:

- Excessive contributions totaling \$160,050 were resolved in an untimely manner;
- Excessive contributions totaling \$74,800¹¹ were resolved in a timely manner;
- A contribution of \$2,100 was not excessive, as it had been returned for non-sufficient funds; and,
- Excessive contributions totaling \$7,100 remain unresolved. Cancelled check copies (front and back) and/or other documentation demonstrating that these

¹¹ Based on its response to the Preliminary Audit Report, there are contributions of \$173,210 (\$74,800 + \$98,410) for which CDFP provided redesignation letters, but has not transferred to FOCD. As of March 31, 2011, CDFP's reported ending cash is \$14,289.

remaining refunds were negotiated should be provided or the amount should be disgorged to the U.S. Treasury.

Finding 3. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of reported figures with bank records revealed that CDFP understated its receipts by \$355,240 and overstated its disbursements by \$190,935 in 2008. In response to the Preliminary Audit Report, CDFP amended its reports, but excluded an adjustment relating to net realized investment losses. As a result, receipts for 2008 remain misstated.

Legal Standard

Contents of Reports. Each report must disclose:

- The amount of cash-on-hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the election cycle;
- The total amount of disbursements for the reporting period and for the election cycle; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements), 2 U.S.C. §434(b)(1), (2), (3), (4) and (5).

Facts and Analysis

A. Facts

As a part of fieldwork, the Audit staff reconciled reported activity with bank records for 2008. The following chart outlines the discrepancies for the beginning cash balances, receipts, disbursements, and the ending cash balances. The succeeding paragraphs explain why the differences occurred, if known.

2008 Committee Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ January 1, 2008	\$ 2,489,560	\$ 2,456,875	\$ 32,685 Overstated
Receipts	\$ 1,910,177	\$ 2,265,417	\$ 355,240 Understated
Disbursements	\$ 4,397,873	\$ 4,206,938	\$ 190,935 Overstated
Ending Cash Balance @ September 30, 2008	\$ 515,970 ¹²	\$ 515,354	\$ 616 Overstated

¹² The reported ending cash balance is incorrect because CDFP decreased its beginning cash-on-hand by \$12,949 in its August 2008 Monthly Report and increased beginning cash-on-hand by \$527,055 in its October 2008 Monthly Report. The unexplained changes in cash may have been an attempt to correct the cash discrepancies that resulted from the misstatements of receipts and disbursements. Absent these incorrect adjustments by CDFP, the reported ending cash balance at September 30, 2008 would have been \$1,864.

The overstatement of opening cash-on-hand (\$32,685) resulted from discrepancies that occurred in the previous year, 2007.

The understatement of receipts resulted from the following:

• Matching fund payment received 7/17/08, not reported	\$ 514,173
• Net realized losses (investment accounts), not reported ¹³	(150,370)
• Vendor refund, not reported	5,876
• Offsets to operating expenditures, not reported	23,954
• Political committee contributions, not reported	16,100
• Unexplained difference	(54,493)
Net understatement of receipts	<u>\$ 355,240</u>

The overstatement of disbursements resulted from the following:

• Loan repayment, over-reported	\$ (144,757)
• Disbursements and investment fees, not reported	239,950
• Net errors in reporting payroll and fees	41,733
• Transfer to the Candidate's Senate committee, over-reported ¹⁴	(351,210)
• Reported disbursements that actually cleared bank in Dec. '07	(3,300)
• Unexplained difference	26,649
Net overstatement of disbursements	<u>\$ (190,935)</u>

The overstatement of ending cash-on-hand (\$616) resulted from the misstatements described above.

B. Preliminary Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed the misstatement and provided CDFP representatives with copies of the Audit staff's bank reconciliation. In its response to the exit conference regarding the over-reporting of transfers to the Candidate's Senate committee (totaling \$351,210), CDFP representatives stated that CDFP had instructed its broker to transfer the funds to the FOCD account, and the broker's delay in making the transfer caused the reporting discrepancy. The reporting error could have been avoided if CDFP had not reported the transfer until the funds were actually transferred. Regarding the reporting of operating expenditures, CDFP representatives stated that many operating expenditures were not reported because they were unaware of the data processing requirements for entering debts and obligations. Thus, many debt payments were not disclosed in CDFP's reports. CDFP representatives did not address any other discrepancies (noted above).

In the Preliminary Audit Report, the Audit staff recommended that CDFP amend its reports to correct the misstatements for 2008.

¹³ It should be noted that this relates to realized gains and losses disclosed by the brokerage firm as such in its monthly statements, which were not reported by CDFP. These net realized losses resulted from the decline in the stock market.

¹⁴ CDFP reported this transfer in September 2008, when it actually occurred in October of 2008. The Audit staff's bank reconciliation was done through September 2008. As such, it was recommended that CDFP amend its reports to correctly disclose the transfer in October 2008.

C. Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report, Counsel stated that, after the date of ineligibility, CDFP had some difficulty in preparing its reports. Counsel maintained this was due mainly to problems experienced in the use of the financial database. Counsel added that this is why, for example, CDFP failed to disclose a matching fund payment received on July 17, 2008, and over-reported a \$144,757 loan repayment. Counsel concluded that CDFP is complying with the Preliminary Audit Report's recommendations by filing amendments to correct these misstatements.

Counsel further added that the Preliminary Audit Report does not correctly present the level of misstatement, mainly because of its incorrect treatment of CDFP's brokerage account. Counsel argued that the Preliminary Audit Report "appears to confuse fluctuations in the account's fair market value, which do not need to be reported, with the actual sale of the portfolio assets." Counsel contended that the Preliminary Audit Report's treatment of the \$351,210 transfer of general election contributions and the \$150,370 in net realized losses resulted from this incorrect treatment.

In response to the Preliminary Audit Report, CDFP filed amended reports for calendar years 2008 and for a portion of 2009. CDFP did not accept the Audit staff's assessment of its investment accounts and, as such, included only a portion of the adjustments relating to the investment accounts in its amended reports. Specifically, those reports did not include net realized losses of \$150,370 (see section A. above). However, by not amending its reports for the adjustment arising from net realized losses, receipts remain misstated for 2008. CDFP materially corrected disbursements.